FEDERAL REGISTER

VOLUME 24 NUMBER 211

Washington, Wednesday, October 28, 1959

Title 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

SUBCHAPTER A—MARKETING ORDERS

[Lemon Reg. 815, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (a) (1) (ii) of § 953.922 (Lemon Regulation 815, 24 F.R. 8443) are hereby amended to read as follows:

(ii) District 2: 195,300 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 22, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9096; Filed, Oct. 27, 1959; 8:47 a.m.]

SUBCHAPTER B—PROHIBITIONS OF IMPORTED COMMODITIES

PART 1070—CUCUMBERS

Cucumber Regulation No. 3

Findings and determinations. (a) Notice of rule making regarding proposed restrictions on the importation of cucumbers into the United States, to be made effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), in like manner that restrictions are imposed under Marketing Order No. 115 on cucumbers produced in Florida, was published in the FEDERAL REGISTER September 30, 1959 (24 F.R. 7877). The notice afforded interested persons an opportunity to file data, views, or arguments in regard thereto not later than 10 days following publication in the FEDERAL REGISTER. An amendment to this notice occasioned by a change in restrictions imposed under Marketing Order No. 115 on cucumbers produced in Florida, was published in the FEDERAL REGISTER, October 13, 1959 (24 F.R. 8301), and afforded interested parties an additional 10 days following publication to file data, views or arguments with respect to the notice as amended. Within the period specified, the Vegetable Growers Association of America, Washington, D.C., filed a statement concurring in the proposed regulations. No other data, views or arguments were filed.

Subsequent to the publication of the notice as amended and on the basis of recommendations and information furnished the Department, restrictions imposed under Marketing Order No. 115 on cucumbers produced in Florida were further amended with respect to size requirements by limiting the handling of such cucumbers during the period of Oc-

(Continued on next page)

CONTENTS

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CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

tober 23, 1959, through November 15, 1959, to cucumbers having a maximum diameter of 2½ inches (24 F.R. 8542). The provisions of the act prohibit the importation of cucumbers unless such cucumbers comply with the grade, size, quality, and maturity restrictions applicable under Marketing Order No. 115 to cucumbers produced in Florida. Accordingly, as hereinafter set forth, in addition to adopting the proposed import restrictions set forth in the aforementioned notice as amended, it is necessary to restrict the size of imported cucumbers in like manner as the size of cucumbers produced in Florida is restricted under Marketing Order No. 115.

(b) It is hereby found and determined that it is impracticable, unnecessary, and contrary to the public interest to engage in further rule making procedure and that good cause exists for not postponing the effective date of this regulation beyond that herein specified (5 U.S.C. 1001–1011) in that (1) the importation of cucumbers is expected to begin in November, 1959; (2) requirements established by this import regulation are issued pursuant to section 8e of the act, which makes such regulation mandatory; (3) compliance with this cucumber import regulation should not require any special preparation by importers which cannot be completed by the effective date; (4) notice hereof is hereby determined to be reasonable in accordance with the requirements of the act and is not less than the minimum period of three days specified in the act; and (5) the regulations hereby established for cucumbers that may be imported into the United States comply with grade, size, quality and maturity restrictions imposed upon cucumbers produced in Florida under Marketing Order No. 115 (§ 1015.303; 24 F.R. 7863, 8089, 8542).

§ 1070.3 Cucumber Regulation No. 3.

(a) *Import restrictions.* Effective November 1, 1959 and subsequent to that date as specified herein no person may import cucumbers unless such cucumbers meet the following requirements:

(1) From November 1, 1959 through December 31, 1959, U.S. No. 1, or better, grade (which includes U.S. Fancy, U.S. Extra No. 1, U.S. No. 1, U.S. No. 1 Small, and U.S. No. 1 Large). In addition, from November 1, 1959 through November 15, 1959, such cucumbers are limited to 2½ inches maximum diameter.

(2) From January 1, 1960 through July 31, 1960, U.S. No. 2, or better, grade.

(3) The requirements of this paragraph except for decay shall not be applicable to cucumbers of the Kirby, MR 17, or other pickling type cucumbers of similar varietal characteristics.

(b) *Minimum quantities.* Any importation which in the aggregate, does not exceed 54 pounds may be imported without regard to the provisions of paragraph (a) of this section.

(c) *Plant quarantine.* No provisions of this section shall supersede the restrictions or prohibitions of cucumbers under the Plant Quarantine Act of 1912.

(d) *Inspection and certification.* (1) The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated, pursuant to § 1060.4(a) of this chapter, as a governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of cucumbers that are imported or to be imported into the United States under the provisions of section 8e of the act.

(2) Inspection and certification by the Federal or the Federal-State Inspection Service of each lot of imported cucumbers is required pursuant to § 1060.3 *Eligible imports* of this chapter and this section. Each such lot shall be made available and accessible for inspection. Such inspection and certification will be made available in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers of uninspected and uncertified cucumbers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located each importer must give the specified advance notice to the applicable office listed below prior to the time cucumbers will be imported.

Ports	Office	Advance notice
All Texas points.	W. T. McNabb, 222 McClendon Bldg., 305 E. Jackson St., P.O. Box 111, Harlingen, Tex. (Tel. Garfield 3-5644).	1 day.
All Arizona points.	R. H. Bertelson, Rm. 202, Trust Bldg., 305 American Ave., P.O. Box 1646, Nogales, Ariz. (Tel. Atwater 7-2202).	Do.
All California points.	Carley D. Williams, 294 Wholesale Terminal Bldg., 784 So. Central Ave., Los Angeles 21, Calif. (Tel. Madison 2-8756).	3 days.
All Florida points.	Lloyd W. Boney, Dade County Growers Market, 1200 NW. 21st Terrace, Rm. 5, Miami 42, Fla. (Tel. Franklin 1-6932).	Do.
All other points.	E. E. Conklin, Chief, Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, AMS, U.S. Dept. of Agriculture, Washington 25, D.C. (Tel. Dudley 8-5870).	Do.

(3) Inspection certificates shall cover only the quantity of cucumbers that is being imported at the particular port of entry by a particular importer.

(4) The inspections performed, and certificates issued by the Federal or Federal-State Inspection Service, shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (Part 51 of this title). The cost of any inspection and certification shall be borne by the applicant therefor.

(5) Each inspection certificate issued with respect to any cucumbers to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The name of the importer (consignee);

(iv) The commodity inspected;

(v) The quantity of the commodity covered by the certificate;

(vi) The principal identifying marks on the containers;

(vii) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(viii) The following statement, if the facts warrant: Meets U.S. Import requirements under Section 8e of the Agricultural Marketing Agreement Act of 1937.

(e) *Definitions.* (1) The grades and sizes used in this section shall have the same meaning assigned these terms in the United States Standards for Cucumbers (§§ 51.2220 to 51.2239, inclusive, of this title), including the tolerances set forth therein.

(2) All other terms shall have the same meaning as when used in the General Regulations (Part 1060 of this chapter) applicable to the importation of listed commodities.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: October 26, 1959, to become effective November 1, 1959.

FLOYD F. HEDLUND,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9161; Filed, Oct. 27, 1959; 9:36 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—ECONOMIC REGULATIONS

[Reg. ER-283]

[Amdt. 1]

PART 299—EXEMPTION OF AIR CARRIERS FROM CERTAIN REQUIREMENTS OF SECTION 408 OF THE FEDERAL AVIATION ACT

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of October 1959.

Part 299 of the Board's Economic Regulations grants limited exemptions from section 408(a) (2) and (3) of the Federal Aviation Act to any direct air carrier which is a party to an aircraft purchase or lease transaction requiring approval under these subsections, provided certain conditions are met.

On July 29, 1959, a notice of proposed rule making was published in the FEDERAL REGISTER (24 F.R. 6057) and circulated to the industry as Docket No. 10740, dated July 24, 1959, which proposed the amendment of Part 299 so as to specifically exclude from coverage under that part any aircraft purchase or lease agreement where the amount paid to the person whose aircraft are being acquired is directly related to the profits derived from the operation of such aircraft. The Board believes that the prevention of possible abuses of operating authority and the sound regulation of the air carriers require that such transactions not be permitted without a clear evidentiary showing that they do not involve a violation of the Act or do not, for any other reason, adversely affect the public interest.

In addition to the foregoing, the notice of proposed rulemaking also proposed to add a new § 299.4 to Part 299 to make it clear that any exemption granted by the part may be terminated by the Board, under appropriate procedures, with respect to any transaction that it believes to be contrary to the public interest.

The only comment received states that the words "under appropriate procedures" in new § 299.4 do not provide adequate protection for carriers which have entered into a lease or other arrangement pursuant to the exemption. It requests that the Board spell out certain minimum procedures which would be required with respect to the termination of an exemption and suggests that such procedures should consist of notice and hearing and allowance of ample time for the termination of the exemption to permit parties to make new arrangements in order to minimize any adverse economic effect and prevent any interruption of service to the public.

As the Board indicated in the preamble to Docket No. 10740, the termination of any exemption afforded under

Part 299 will be accomplished in a manner consistent with law. The Board is aware that there may be instances where the termination of a particular exemption may require notice and opportunity for hearing or an allowance of time in which to effectuate the termination of the underlying agreement may be proper. However, the circumstances surrounding an exemption may be such that the exemption may be terminated without need for notice and hearing. It is believed that the determination of what constitutes "appropriate procedures" with respect to the termination of a particular exemption under Part 299 can best be made on a case-to-case basis. For these reasons the Board does not believe it appropriate or necessary to spell out the procedures which it would follow in terminating exemptions granted by Part 299. It should be pointed out that nothing in § 299.4 would operate to prevent any person from at any time seeking approval of an agreement under section 408(b) of the Act.

It is also deemed appropriate at this time to further amend Part 299 to require that two copies of the agreement to purchase, lease or lease with option to purchase aircraft be filed with the Board within 15 days after the execution thereof. At the present time only one such copy is required. Since this amendment is a rule of agency procedure and practice and imposes no substantial burden on any person, notice and public procedure herein are unnecessary.

Interested persons have been afforded an opportunity to participate in the formulation of this amendment and due consideration has been given to all relevant matter presented.

In consideration of the foregoing the Civil Aeronautics Board hereby amends the Economic Regulations (14 CFR Part 299) effective November 26, 1959, as follows:

§ 299.2 [Amendment]

1. By amending § 299.2 as follows:

a. By placing a comma after the first occurrence of the word "purchase" in the first sentence of paragraph (b).

b. By adding a new paragraph (d) to read as follows:

(d) An aircraft purchase or lease agreement wherein the payment to the person whose aircraft are being purchased or leased is directly related to the gross revenue or profits derived from the operation of the aircraft.

§ 299.3 [Amendment]

2. By amending § 299.3 *Filing requirements* by deleting the words "A copy" in the first sentence and inserting in lieu thereof the words "Two copies."

3. By renumbering present § 299.4 as 299.5 and by adding a new §299.4 to read as follows:

§ 299.4 Termination of exemption.

The exemption granted by this part may be terminated by the Board, under appropriate procedures, with respect to any transaction that the Board finds to be inconsistent with the public interest.

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply sec. 416(b), 72 Stat. 771; 49 U.S.C. 1386)

Effective: November 26, 1959.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART, *Acting Secretary.*

[F.R. Doc. 59-9113; Filed, Oct. 27, 1959; 8:50 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59-WA-6]

[Amdt. 70]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

[Amdt. 79]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

Revocation of Segments of Federal Airway, Associated Control Areas, Redesignation of Reporting Points, and Modification of Control Area Extension

The purpose of these amendments to §§ 600.104, 601.104, 601.4104, 601.4224, and 601.1284 is to revoke the segments of Amber Federal airway No. 4 which extend from Brownsville, Tex., to San Antonio, Tex., and Waco, Tex., to Tulsa, Okla., and their associated control areas, redesignation of reporting points and modification of Oklahoma City, Okla., control area extension.

The Federal Aviation Agency IFR peak day survey for each half of calendar year 1958 showed less than 16 aircraft movements on the segment from Brownsville to San Antonio and less than eleven on the segment from Waco to Tulsa. On the basis of this survey, it appears that the retention of these segments and associated control areas is unjustified as an assignment of airspace and revocation thereof will be in the public interest. Coincident with this action, §§ 601.4104 and 601.4224, relating to reporting points, will be modified by revoking Brownsville, Tex., radio range, Kingsville, Tex., intersection, Stadium intersection and Oklahoma City radio range, as designated reporting points and by designating Oklahoma City radio range on Red Federal airway No. 24. Moreover, Amber 4 is also used to describe the boundary of the Oklahoma City, Okla., control area extension. The revocation of this airway segment will necessitate the redescription of § 601.1284, relating to control area extensions, by use of VOR Federal airway No. 14S. The airspace encompassed by this modification is essentially the same as now designated. Such action will result in Amber 4 and its associated control areas extending from San Antonio, Tex., to Waco, Tex.; from Tulsa, Okla., to Baldwin City, Kans., intersection; and from Omaha, Nebr., to Minot, N. Dak.

This action has been coordinated with the Army, the Navy, the Air Force, and interested aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 600.104 (14 CFR, 1958 Supp., 600.104) and §§ 601.104, 601.4104, 601.4224 and 601.1284 (14 CFR, 1958 Supp., 601.104; 601.4104; 601.4224 and 601.1284) are amended as follows:

1. Section 600.104 is amended to read:

§ 600.104 Amber Federal airway No. 4 (San Antonio, Tex., to Waco, Tex.; Tulsa, Okla., to Baldwin City, Kans., and Omaha, Nebr., to Minot, N. Dak.).

From the San Antonio, RR via the INT of the N course of the San Antonio, Tex., RR and a line bearing 226° True from the Austin, Tex., RBN; Austin, Tex., RBN; to the Waco, Tex., RR. From the Tulsa, Okla., RR via the INT of the NE course of the Tulsa, Okla., RR and the S course of the Chanute, Kans., RR; Chanute, Kans., RR to the INT of the NE course of the Chanute, Kans., RR and the SW course of the Kansas City, Mo., RR. From the Omaha, Nebr., RR via the Sioux City, Iowa, RR; Sioux Falls, S. Dak., RR; Huron, S. Dak., RR; Aberdeen, S. Dak., RR; Bismarck, N. Dak., RR; the INT of the N course of the Bismarck, N. Dak., RR and the SE course of the Minot, N. Dak., RR to the Minot, N. Dak., RR.

§ 601.104 [Amendment]

2. In the caption of § 601.104 *Amber Federal airway No. 4 control areas (Brownsville, Tex., to Minot, N. Dak.)*, delete "*(Brownsville, Tex., to Minot, N. Dak.)*." and substitute therefor "*(San Antonio, Tex., to Waco, Tex.; Tulsa, Okla., to Baldwin City, Kans., and Omaha, Nebr., to Minot, N. Dak.)*."

3. Section 601.4104 is amended to read:

§ 601.4104 Amber Federal airway No. 4 (San Antonio, Tex., to Waco, Tex.; Tulsa, Okla., to Baldwin City, Kans., and Omaha, Nebr., to Minot, N. Dak.).

San Antonio, Tex., RR; Austin, Tex., RBN; Waco, Tex., RR; Tulsa, Okla., RR; Chanute, Kans., RR; Sioux City, Iowa, RR; Sioux Falls, S. Dak., RR; Huron, S. Dak., RR; Aberdeen, S. Dak., RR; Minot, N. Dak., RR.

§ 601.4224 [Amendment]

4. In the text of § 601.4224 *Red Federal airway No. 24 (Amarillo, Tex., to Oklahoma City, Okla.)*, delete "No re-

porting point designation" and substitute therefor "Oklahoma City, Okla., RR."

§ 601.1284 [Amendment]

5. In the text of § 601.1284 *Control area extension (Oklahoma City, Okla.)*, delete "and on the south and southeast by Amber Federal airway No. 4;" and substitute therefor "and on the S and SE by VOR Federal airway No. 14S;".

These amendments shall become effective 0001 e.s.t. December 17, 1959.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9086; Filed, Oct. 27, 1959; 8:46 a.m.]

[Airspace Docket No. 59-WA-172]

[Amdt. 19]

PART 602—ESTABLISHMENT OF CODED JET ROUTES AND NAVIGATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

Modification of Coded Jet Route

The purpose of this amendment to § 602.534 of the regulations of the Administrator is to delete the Waterville, Ohio, VORTAC from the structure of VOR/VORTAC jet route No. 34 and to add the Pullman, Mich., VOR, thereto.

The segment of VOR/VORTAC jet route No. 34 from Milwaukee, Wis., to Cleveland, Ohio, is established via the Waterville, VORTAC, formerly the Waterville VOR. The Federal Aviation Agency is modifying this segment of jet route J-34-V from the Milwaukee VOR via the Pullman VOR and the intersection of the Pullman 118° and the Cleveland VOR 274° radials. This modification will improve the jet route structure by replacing the Waterville VORTAC, which is not frequency protected above 24,000 feet, with the Pullman VOR, which is frequently protected up to 75,000 feet.

This action has been coordinated with the Army, the Navy, the Air Force, and interested civil aviation organizations. Accordingly, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act have, in effect, been complied with. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) § 602.534 (14 CFR, 1958 Supp., 602.534) is amended as follows:

In the text of § 602.534 *VOR/VORTAC jet route No. 34 (Dickinson, N. Dak., to Herndon, Va.)*, delete "Waterville, Ohio, VOR;" and substitute therefor "Pullman, Mich., VOR; INT of the Pullman VOR 118° and the Cleveland VOR 274° radials;".

This amendment shall become effective 0001 e.s.t. December 17, 1959.

(Secs. 307(a) and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C. on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9087; Filed, Oct. 27, 1959; 8:46 a.m.]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 62—NON-POSTAL STAMPS AND BONDS

Migratory-Bird Hunting Stamps

The regulations of the Post Office Department are amended as follows:

In § 62.2 *Migratory-Bird Hunting Stamps*, amend paragraph (b) to read as follows:

(b) *Price.* Migratory-Bird Hunting Stamps cost $3.00.

NOTE: The corresponding Postal Manual section is 172.22.

(R.S. 161, as amended 398, as amended, sec. 2, 48 Stat. 451, as amended; 5 U.S.C. 22, 369; 16 U.S.C. 718b)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-9112; Filed, Oct. 27, 1959; 8:50 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 2013]

[Nevada 044897]

[Nevada 044898]

NEVADA

Reserving Public Lands for Use by Department of the Army (Mathews and Pine Canyon Dam Flood Control Project)

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Subject to valid existing rights the following-described public lands are hereby withdrawn and reserved as follows:

a. Under jurisdiction of the Department of the Army, from all forms of appropriation under the public land laws, including the mining and the mineral leasing laws and disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, for use in connection with the construction and maintenance of the Mathews and the Pine Canyon Dam Flood Control Projects, as authorized by section 2 of the act of June 28, 1938 (52 Stat. 1215) as amended by section 5 of the act of August 11, 1938 (53 Stat. 1415):

MOUNT DIABLO MERIDIAN

T. 5 S., R. 69 E.,
Sec. 24, E½SE¼SW¼;
Sec. 25, SE¼NE¼;
Sec. 29, W½SW¼SW¼;
Sec. 30, E½SW¼SE¼ and SE¼SE¼;
Sec. 31, NE¼NE¼, NE¼NW¼NE¼ and N½SE¼NE¼;
Sec. 32, NW¼NW¼NW¼, S½NW¼NW¼ and SW¼NW¼.
T. 5 S., R. 70 E.,
Sec. 19, SW¼SE¼SE¼;
Sec. 30, Lot 2, W½E½NE¼, SE¼NW¼, N½NE¼SW¼ and N½N½SE¼.

b. Under jurisdiction of the Secretary of the Interior, from all forms of appropriation under the public land laws including the mining but not the mineral leasing laws nor disposals of materials under the act of July 31, 1947, as amended (supra), for use by the Department of the Army in connection with the construction and maintenance of the Pine Canyon Dam Flood Control Project:

MOUNT DIABLO MERIDIAN

T. 5 S., R. 69 E.,
Sec. 32, SW¼SW¼NE¼, NW¼NW¼SE¼, NW¼NE¼SE¼, S½N½SE¼, S½SE¼, E½SE¼SW¼, NE¼SW¼, NE¼NW¼SW¼, SE¼NW¼, and SW¼NE¼NW¼;
Sec. 33, SW¼NW¼SW¼, NW¼SW¼SW¼, S½SW¼SW¼, and SW¼SE¼SW¼.
T. 6 S., R. 69 E. (Unsurveyed)
Sec. 4, W½NE¼NW¼, NW¼NW¼, NE¼SW¼NW¼ and W½SE¼NW¼;
Sec. 5, E½NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, E½NE¼NW¼, and NE¼SE¼NW¼.

The areas described aggregate approximately 976 acres.

2. The jurisdiction of the Department of the Army over the lands described in paragraph 1(b) shall be limited to their use for flowage purposes. All leases and permits under the public land laws, including the mineral leasing laws, shall contain provisions (1) subordinating the rights granted thereunder to a right of intermittent flooding by the Government of the United States, its officers, agents or employees, including the right to accumulate and dispose of thereon such silt and debris as may be necessary in furtherance of the construction, operation and maintenance of the project and (2) prohibiting human habitation upon the lands or the construction and maintenance of floatable structures thereon.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 22, 1959.

[F.R. Doc. 59-9092; Filed, Oct. 27, 1959; 8:46 a.m.]

[Public Land Order 2014]

[Utah 012576]

UTAH

Revoking Departmental Order of November 24, 1908, Which Withdrew Lands in La Salle National Forest for Use of Forest Service for Administrative Site Purpose

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The departmental order of November 24, 1908, which withdrew a tract of land in the La Salle National Forest for use of the Forest Service as an administrative site, described by metes and bounds as 144 acres in approximately T. 36 S., R. 19 E., S.L.M., "Kigalia Site", is hereby revoked.

The lands are in the withdrawal made by Public Land Order No. 1736 of September 22, 1958, for use of the Forest Service.

ROGER ERNST,
Assistant Secretary of the Interior.

OCTOBER 22, 1959.

[F.R. Doc. 59-9093; Filed, Oct. 27, 1959; 8:47 a.m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 4 of the Act of August 26, 1957 (Public Law 85-165, 71 Stat. 414) and section 9 of the Technical Amendments Act of 1958 (72 Stat. 1608), such regulations are amended as follows:

PARAGRAPH 1. Section 1.168 is amended to read as follows:

§ 1.168 Statutory provisions; amortization of emergency facilities.

SEC. 168. *Amortization of emergency facilities.* * * *

(e) *Determination of adjusted basis of emergency facility.* In determining, for purposes of subsection (a) or (g), the adjusted basis of an emergency facility—

(1) *Certifications on or before August 22, 1957.* In the case of a certificate made on or before August 22, 1957, there shall be included only so much of the amount of the adjusted basis of such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority, designated by the President by Executive Order, has certified as necessary in the interest of national defense during the emergency period, and only such portion of such amount as such authority has certified as attributable to defense purposes. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations, but in no event shall such certificate have any effect unless an application therefor is filed before March 24, 1951, or before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, whichever is later.

(2) *Certifications after August 22, 1957.* In the case of a certificate made after August 22, 1957, there shall be included only so much of the amount of the adjusted basis of such facility (computed without regard to this section) as is properly attributable to such construction, reconstruction, erection, installation, or acquisition after December 31, 1949, as the certifying authority designated by the President by Executive order, has certified is to be used—

(A) To produce new or specialized defense items or components of new or specialized defense items (as defined in paragraph (4)) during the emergency period,

(B) To provide research, developmental, or experimental services during the emergency period for the Department of Defense (or one of the component departments of such Department), or for the Atomic Energy Commission, as a part of the national defense program, or

(C) To provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of new sources of uranium ore or uranium concentrate,

and only such portion of such amount as such authority has certified is attributable to the national defense program. Such certification shall be under such regulations as may be prescribed from time to time by such certifying authority with the approval of the President. An application for a certificate must be filed at such time and in such manner as may be prescribed by such certifying authority under such regulations but in no event shall such certificate have any effect unless an application therefor is filed before the expiration of 6 months after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition. For purposes of the preceding sentence, an application which was timely filed under this subsection on or before August 22, 1957, and which was pending on such date, shall be considered to be an application timely filed under this paragraph.

(3) *Separate facilities; special rule.* After the completion or acquisition of any emergency facility with respect to which a certificate under paragraph (1) or (2) has been made, any expenditure (attributable to such facility and to the period after such completion or acquisition) which does not represent construction, reconstruction, erection, installation, or acquisition included in such certificate, but with respect to which a separate certificate is made under paragraph (1) or (2), shall not be applied in adjustment of the basis of such facility, but a separate basis shall be computed therefor pursuant to paragraph (1) or (2), as the case may be, as if it were a new and separate emergency facility.

(4) *Definitions.* For purposes of paragraph (2)—

(A) *New or specialized defense item.* The term "new or specialized defense item" means only an item (excluding services)—

(i) Which is produced, or will be produced, for sale to the Department of Defense (or one of the component departments of such Department), or to the Atomic Energy Commission, for use in the national defense program, and

(ii) For the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

(B) *Component of new or specialized defense item.* The term "component of a new or specialized defense item" means only an item—

(i) Which is, or will become, a physical part of a new or specialized defense item, and

(ii) For the production of which existing productive facilities are unsuitable because of its newness or of its specialized defense features.

(5) *Limitation with respect to uranium ore or uranium concentrate processing facilities.* No certificate shall be made under paragraph (2)(C) with respect to any facility unless existing facilities for processing the uranium ore or uranium concentrate which will be processed by such facility are unsuitable because of their location.

* * * * *

(i) *Termination.* No certificate under subsection (e) shall be made with respect to any emergency facility after December 31, 1959.

(j) *Cross reference.* For special rule with respect to gain derived from the sale or exchange of property the adjusted basis of which is determined with regard to this section, see section 1238.

[Sec. 168 as amended by sec. 4, Act of Aug. 26, 1957 (Pub. Law 85-165, 71 Stat. 414); sec. 9, Technical Amendments Act 1958 (72 Stat. 1608)]

§ 1.168-1 [Amendment]

PAR. 2. Paragraph (b) of § 1.168-1 is amended to read as follows:

(b) Generally, an amortization deduction will not be allowed with respect to an emergency facility for any taxable year unless such facility has been certified before the date of filing of the taxpayer's income tax return for such tax-

able year. However, this limitation does not apply in the case of a certificate made after August 22, 1957, for an emergency facility to provide primary processing for uranium ore or uranium concentrate under a program of the Atomic Energy Commission for the development of any sources of uranium ore or uranium concentrate, if application for such certificate was filed either (1) before September 2, 1958, and before the expiration of six months after the beginning of construction, reconstruction, erection, or installation or the date of acquisition of the facility, or (2) after September 1, 1958, and on or before December 2, 1958.

§ 1.168–2 [Amendment]

PAR. 3. Paragraph (a) of § 1.168–2 is amended by adding at the end thereof the following: "However, if the facility is described in section 168(e)(2)(C) and an application for a certificate is filed within the period prescribed by section 9(c) of the Technical Amendments Act of 1958 (72 Stat. 1609) and paragraph (b) of § 1.168–1, the election may be made by a statement in an amended income tax return for the taxable year in which falls the first month of the 60-month amortization period so elected. The statement and amended return in such case must be filed not later than 90 days after the date the certificate is made or not later than 90 days after publication of these regulations in the FEDERAL REGISTER as a Treasury decision, whichever is later. Amended income tax returns or claims for credit or refund should also be filed for other taxable years which are within such amortization period and which precede the taxable year in which the election is made. Nothing in this paragraph should be construed as extending the time specified in section 6511 within which a claim for credit or refund may be filed."

§ 1.168–4 [Amendment]

PAR. 4. Paragraph (b) of § 1.168–4 is amended by inserting the following after the second sentence: "However, if the facility is one described in section 168(e)(2)(C) and the application was filed after September 1, 1958, and on or before December 2, 1958, the preceding sentence shall not apply."

§ 1.168–5 [Amendment]

PAR. 5a. Paragraph (a)(1) of § 1.168–5 is amended by revising the third sentence to read as follows: "Also, it will be only a portion of what would otherwise constitute the adjusted basis of the emergency facility if only a portion of the basis (unadjusted) is certified as attributable to defense purposes or, in the case of a certification after August 22, 1957, if only a portion of the basis (unadjusted) is certified as attributable to the national defense program."

b. Paragraph (b)(1) of § 1.168–5 is amended by deleting "section 168(e)(1)" and inserting in lieu thereof "section 168(e)(1) or (2)."

[F.R. Doc. 59-9100; Filed, Oct. 27, 1959; 8:48 a.m.]

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Requirement of Additional Information in Application for Extension of Time To File an Individual Income Tax Return on Form 1040 or Form 1040W

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to amend the Income Tax Regulations (26 CFR Part 1) to provide a new rule with respect to applications for extensions of time for filing individual income tax returns on Form 1040 or Form 1040W, such regulations are hereby amended, effective for taxable years beginning after December 31, 1958, as follows:

Section 1.6081–1, as amended by Treasury Decision 6371, approved April 1, 1959, is further amended by striking out paragraph (b) and inserting in lieu thereof the following:

(b) *Application for extension of time*—(1) *In general.* A taxpayer desiring an extension of the time for filing a return, statement, or other document shall submit an application therefor on or before the due date of such return, statement, or other document. Except as provided in subparagraph (3) of this paragraph, such application shall be made to the internal revenue officer with whom such return, statement, or other document is required to be filed. Such application shall be in writing, properly signed by the taxpayer or his duly authorized agent, and shall clearly set forth (i) the particular tax return, information return, statement, or other document, including the taxable year or period thereof, with respect to which the extension of the time for filing is desired, and (ii) a full recital of the reasons for requesting the extension to aid such internal revenue officer in determining the period of extension, if any, which will be granted.

(2) *Additional information in the case of Form 1040 or Form 1040W.* In addition to the information required under subparagraph (1) of this paragraph, the application of a taxpayer desiring an extension of the time for filing an individual income tax return on Form 1040 or Form 1040W for any taxable year beginning after December 31, 1958, shall also set forth (i) whether an income tax return has been filed on or before its due date for each of the three taxable years immediately preceding the taxable year of such return, and if not, the reason for each failure, and (ii) whether the taxpayer was required to file a declaration of estimated tax for the taxable year of such return, and if so, whether each required estimated tax payment was made on or before its due date. For purposes of this subparagraph a return is considered as filed on or before its due date if it is filed on or before the applicable date provided in section 6072 or on or before the last day of the period covered by an extension of time granted pursuant to the provisions of section 6081, and each required payment of estimated tax is considered as paid on or before its due date if it is paid on or before the applicable date provided in section 6153 or on or before the last day of the period covered by an extension of time granted pursuant to the provisions of section 6161.

(3) *Information returns filed with Service Center.* An application for an extension of the time for filing any information return required to be filed with an Internal Revenue Service Center shall state the location of the Service Center with which such return will be filed. Such application shall be made to the internal revenue officer with whom the applicant is required to file an income tax return or with whom the applicant would be required to file an income tax return if such a return were required of him.

(4) *Taxpayer unable to sign.* In any case in which a taxpayer is unable, by reason of illness, absence, or other good cause, to sign a request for an extension, any person standing in close personal or business relationship to the taxpayer may sign the request on his behalf, and shall be considered as a duly authorized agent for this purpose, provided the request sets forth the reasons for a signature other than the taxpayer's and the relationship existing between the taxpayer and the signer.

(5) *Form of application.* The application for an extension of the time for filing a return, statement, or other document may be made in the form of a letter. However, in the case of an individual income tax return on Form 1040 or Form 1040W, the application for an extension of the time for filing may be made either on Form 2688 or in the form of a letter.

[F.R. Doc. 59-9099; Filed, Oct. 27, 1959; 8:48 a.m.]

[26 CFR (1954) Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Notice of Hearing on Proposed Regulations

Proposed regulations under section 162 of the Internal Revenue Code of 1954, relating to expenditures for lobbying purposes, were published in the FEDERAL REGISTER for Saturday, September 19, 1959 (24 F.R. 7584).

A public hearing on the proposed regulations will be held on Thursday and Friday, November 12 and 13, 1959, at 9:30 a.m., e.s.t., in Room 3313, Internal Revenue Building, 12th and Constitution Avenue NW., Washington, D.C. Persons who plan to attend the hearing are requested to so notify the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., by November 6, 1959.

[SEAL] MAURICE LEWIS,
Director, Technical Planning Division, Internal Revenue Service.

[F.R. Doc. 59-9150; Filed, Oct. 27, 1959; 8:51 a.m.]

[26 CFR (1954) Part 48]

MANUFACTURERS AND RETAILERS EXCISE TAXES

Excise Tax on Sale of Gasoline and Payments in Respect of Gasoline Used for Certain Purposes

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

The Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) set forth below are hereby prescribed under sections 4081–4084, inclusive, 6206, 6420, 6421, and 6675 of the Internal Revenue Code of 1954, relating to the manufacturers excise tax on the sale of gasoline and to payments to be made in respect of gasoline used for certain purposes.

Subpart H—Motor Vehicles, Tires, Tubes, Tread Rubber, Gasoline, and Lubricating Oil

GASOLINE

Subpart H—Motor Vehicles, Tires, Tubes, Tread Rubber, Gasoline, and Lubricating Oil

GASOLINE

§ 48.4081 Statutory provisions; imposition of tax.

SEC. 4081. *Imposition of tax*—(a) *In general.* There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of 3 cents a gallon.

(b) *Rate reduction.* On and after July 1, 1972, the tax imposed by this section shall be 1½ cents a gallon.

(c) *Temporary increase in tax.* On and after October 1, 1959, and before July 1, 1961, the tax imposed by this section shall be 4 cents a gallon.

[Sec. 4081 as amended and in effect Jan. 1, 1959, and as amended by sec. 201(a), Federal-Aid Highway Act 1959 (73 Stat. 613)]

§ 48.4081–1 Imposition and rates of tax.

(a) *In general.* Section 4081 imposes a tax on the sale of gasoline by the producer or importer thereof, or by any producer of gasoline, regardless of when or whether such gasoline was produced by him. For the requirement that producers and importers of gasoline be registered and give bond, see section 4101 and the regulations thereunder. See section 4082(c) and paragraph (c) of § 48.4082–1 for certain uses of gasoline that shall be considered sales of gasoline.

(b) *Rate of tax.* Tax is imposed on the sale of gasoline at the rate applicable on the date on which the gasoline is sold. Following are the rates in effect on and after January 1, 1959:

Gasoline sold	*Cents per gallon*
(1) January 1, 1959, to Sept. 30, 1959, inclusive	3
(2) Oct. 1, 1959, to June 30, 1961, inclusive	4
(3) July 1, 1961, to June 30, 1972, inclusive	3
(4) On and after July 1, 1972	1½

(c) *Liability for tax.* The tax imposed by section 4081 is payable by the producer or importer making the sale of the gasoline.

§ 48.4082 Statutory provisions; definitions.

SEC. 4082. *Definitions*—(a) *Producer.* As used in this subpart, the term "producer" includes a refiner, compounder, blender, or wholesale distributor, and a dealer selling gasoline exclusively to producers of gasoline, as well as a producer. Any person to whom gasoline is sold tax-free under this subpart shall be considered the producer of such gasoline.

(b) *Gasoline.* As used in this subpart, the term "gasoline" means all products commonly or commercially known or sold as gasoline (including casinghead and natural gasoline).

(c) *Certain uses defined as sales.* If a producer or importer uses (otherwise than in the production of gasoline or of special motor fuels referred to in section 4041(b)) gasoline sold to him free of tax, or produced or imported by him, such use shall for the purposes of this chapter be considered a sale.

(d) *Wholesale distributor.* As used in subsection (a), the term "wholesale distributor" includes any person who—

(1) Sells gasoline to producers, to retailers, or to users who purchase in bulk quantities for delivery into bulk storage tanks, and

(2) Elects to register and give a bond with respect to the tax imposed by section 4081. Such term does not include any person who (excluding the term "wholesale distributor" from subsection (a)) is a producer or importer.

[Sec. 4082 as originally enacted and in effect Jan. 1, 1959, and as amended by sec. 201(e), Federal-Aid Highway Act 1959 (73 Stat. 615)]

§ 48.4082–1 Definitions.

For purposes of the regulations in this subpart unless otherwise expressly indicated:

(a) *Producer.* (1) The term "producer", for purposes of the tax imposed by section 4081, includes a refiner, compounder, or blender, and a dealer selling gasoline exclusively to producers of gasoline, as well as an actual producer. Any other person to whom gasoline is sold tax-free for any purpose is considered to be a "producer", but only with respect to such gasoline purchased tax-free. The mere blending or mixing by any person of gasoline to adapt it for seasonal use or to meet the requirements of particular vendees, or blending which is not a substantial part of the blender's regular year-round business, does not constitute him a producer.

(2) On and after January 1, 1960, the term "producer" shall include, in addition to the persons described in subparagraph (1) of this paragraph, a wholesale distributor. For definition of the term "wholesale distributor", see paragraph (e) of this section.

(b) *Gasoline.* The term "gasoline" includes—

(1) All products commonly or commercially known or sold as gasoline (whether or not they meet the specifications in subparagraph (2) of this paragraph), including casinghead gasoline, natural gasoline, and aviation gasoline; and

(2) All petroleum products meeting the volatility requirements (exclusive of vapor pressure) of United States motor gasoline (United States Government Specifications No. VV–G–101a), except that the term "gasoline" does not include liquefied gases, such as propane, butane, or pentane, or mixtures of the same, or any product—

(i) More than 90 percent of which is evaporated at 310° F. and having an

A.S.T.M. octane number of less than 70, or

(ii) Having a Reid vapor pressure at 100° F. of more than 30 pounds.

(3) The term "gasoline" does not include a liquid sometimes known as white gasoline which is branded and sold by the producer or importer as a pressure appliance fuel and (i) more than 90 percent of which is evaporated at 310° F. and has an A.S.T.M. octane number less than 70, or (ii) has a Reid vapor pressure at 100° F. of more than 30 pounds.

(c) *Use defined as sale.* If gasoline is purchased tax-free by an importer or producer and is used by him (otherwise than in the production of gasoline or of special motor fuels referred to in section 4041(b)), such use constitutes a sale of the gasoline by the producer or importer. Likewise, if any importer or producer of gasoline uses (otherwise than in the production of gasoline or of special motor fuels referred to in section 4041(b)) gasoline imported or produced by him, such use constitutes a sale of the gasoline by the producer or importer. The phrase "otherwise than in the production of gasoline or of special motor fuels referred to in section 4041(b)" includes any use of gasoline by a producer or importer thereof other than as component material in the manufacture or production of gasoline or such special motor fuels.

(d) *Importer.* The term "importer" includes any persons who withdraws gasoline from a customs bonded warehouse for sale or use in the United States.

(e) *Wholesale distributor*—(1) *In general.* The term "wholesale distributor" includes any person who—

(i) Holds himself out to the public as being engaged in the trade or business of selling gasoline to producers of gasoline (including other wholesale distributors), to retailers of gasoline, or to users of gasoline who purchase in bulk quantities for delivery into bulk storage tanks;

(ii) Actually makes more than casual sales of gasoline to the persons described in subdivision (i) of this subparagraph; and

(iii) Has elected to be treated as a producer of gasoline as provided in subparagraph (2) of this paragraph.

(2) *Election.* The election provided in subparagraph (1)(iii) of this paragraph shall be made by furnishing bond and registering as a producer of gasoline in accordance with the provisions of section 4101 and the regulations thereunder. A wholesale distributor will be considered a producer of gasoline only with respect to gasoline sold by him on and after the date on which he is issued a Certificate of Registry (Form 637) as a producer of gasoline, but in no case before January 1, 1960.

(3) *Persons otherwise qualifying as producers.* The term "wholesale distributor" does not include any person who is a producer or importer of gasoline without regard to this paragraph.

(4) *Gasoline on hand.* Since a wholesale distributor is considered a producer with respect to all gasoline sold by him on and after the date on which he qualifies as a producer of gasoline (but not before January 1, 1960), he may incur tax liability under section 4081 on the sale of gasoline which he has on hand at the time he so qualifies and on which tax under section 4081 has already been paid. Such a wholesale distributor will be assumed to sell the gasoline which he has on hand before selling any gasoline which he purchases subsequent to qualifying as a producer of gasoline. However, he may take a credit against the tax imposed under section 4081 on the sale of any such gasoline on hand in an amount equal to any tax which had been previously paid pursuant to section 4081 with respect to the sale of such gasoline.

§ 48.4083 Statutory provisions; exemption of sales to producer.

SEC. 4083. *Exemption of sales to producer.* Under regulations prescribed by the Secretary or his delegate the tax imposed by section 4081 shall not apply in the case of sales of gasoline to a producer of gasoline.

[Sec. 4083 as originally enacted and in effect Jan. 1, 1959]

§ 48.4083–1 Exemptions; sales to producers of gasoline.

(a) *In general.* Gasoline may be sold tax-free by a producer or importer of gasoline to other producers of gasoline, but only if:

(1) Both the seller and the purchaser are bonded and registered in accordance with the provisions of section 4101, and

(2) The purchaser has notified the seller in writing that—

(i) He has given bond, which has been approved, and which is on file with the District Director at_____, and

(ii) He is registered with such District Director under Certificate of Registry No. _____.

A single notification containing the information described in subparagraph (2) of this paragraph may cover all sales by the seller to the purchaser made during a designated period not to exceed four successive calendar quarters.

(b) *Seller not notified prior to filing of excise tax return.* If the written information required under paragraph (a)(2) of this section is not furnished to the seller prior to the time such seller files a return covering taxes due for the period during which the sale was made, such seller must include the tax on the sale in his return for that period. However, if the information is later obtained, a claim for refund of the tax paid on such sale may be filed by the seller, or a credit may be claimed, upon compliance with the provisions of section 6416(a) and the regulations thereunder contained in Subpart O of this part.

(c) *Duty of seller to ascertain validity of tax-free sale.* The seller must use reasonable diligence to satisfy himself that a tax-free sale is warranted under section 4083. If the seller has knowledge at the time of his sale that the purchaser is not bonded and registered pursuant to section 4101, the seller is not relieved under the provisions of section 4083 of liability for the tax. See section 4221(c) and the regulations thereunder contained in Subpart N of this part for provisions under which the seller is relieved of liability for tax in respect of gasoline sold tax-free under section 4083 when he accepts in good faith the evidence required of the purchaser in support of the tax-free sale. For provisions under which the purchaser is considered to be the producer of gasoline purchased tax-free, see section 4082(a).

§ 48.4083–2 Other tax-free sales.

For provisions relating to other tax-free sales of gasoline, see—

(a) Section 4221, relating to certain tax-free sales;

(b) Section 4222, relating to registration; and

(c) Section 4223, relating to special rules relating to further manufacture;

and the regulations thereunder contained in Subpart N of this part.

§ 48.4084 Statutory provisions; cross references.

SEC. 4084. *Cross references.* (1) For provisions to relieve farmers from excise tax in the case of gasoline used on the farm for farming purposes, see section 6420.

(2) For provisions to relieve purchasers of gasoline from excise tax in the case of gasoline used for certain nonhighway purposes or by local transit systems, see section 6421.

[Sec. 4084 as added, amended, and in effect Jan. 1, 1959]

§ 48.4084–1 Cross references; payments to ultimate purchasers of gasoline.

For provisions relating to payments which may be made to the ultimate purchaser of gasoline with respect to—

(a) Gasoline used on a farm for farming purposes; and

(b) Gasoline used for certain nonhighway purposes or by local transit systems;

see sections 6420 and 6421, respectively, and the regulations thereunder contained in Subpart O of this part.

Subpart O—Refunds and Other Administrative Provisions of Special Application to Retailers and Manufacturers Taxes

Sec.

§ 48.6206 Statutory provisions; special rules applicable to excessive claims under section 6420 or 6421.

SEC. 6206. *Special rules applicable to excessive claims under sections 6420 and 6421.* Any portion of a payment made under section 6420 or 6421 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6420 or 6421, as the case may be.

[Sec. 6206 as added, amended, and in effect Jan. 1, 1959]

§ 48.6206-1 Assessment and collection of excessive payment and penalty.

If any portion of a payment made under section 6420, relating to gasoline used on farms, or under section 6421, relating to gasoline used for certain nonhighway purposes or by local transit systems, constitutes an excessive amount as defined in section 6675(b) (see §§ 48.6675 and 48.6675-1), such excessive amount and any civil penalty provided by section 6675 may be assessed and collected by the district director—

(a) As if such excessive amount and civil penalty were a tax imposed by section 4081, relating to tax on the sale of gasoline, and

(b) As if the person who made the claim for payment were liable for tax imposed by section 4801 in such amount. The period within which the portion of a payment constituting an excessive amount and any civil penalty may be assessed shall be 3 years from the last date prescribed by section 6420 or 6421, as the case may be, for the filing of the claim in respect of which such excessive amount is attributable.

§ 48.6420(a) Statutory provisions; gasoline used on farms; gasoline.

SEC. 6420. *Gasoline used on farms*—(a) *Gasoline.* If gasoline is used on a farm for farming purposes, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) The number of gallons so used, by

(2) The rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

[Sec. 6420(a) as added and in effect Jan. 1, 1959]

§ 48.6420(a)-1 Payments to ultimate purchaser of gasoline used on a farm for farming purposes.

(a) *In general.* (1) Section 6420 provides that, if gasoline is used on a farm for farming purposes, payment (without interest) in respect of such gasoline shall be made to the ultimate purchaser thereof in an amount determined by multiplying (i) the number of gallons of gasoline so used, by (ii) the rate of tax on gasoline under section 4081 which applied on the date the gasoline was purchased by the ultimate purchaser. Pursuant to the provisions of section 6420(g) no payment shall be made in respect of gasoline purchased by an ultimate purchaser prior to January 1, 1956, irrespective of the use of such gasoline. However, no payment in respect of gasoline purchased after December 31, 1955, and used on a farm for farming purposes shall be made unless a properly executed claim is filed by the ultimate purchaser within the time prescribed in section 6420(b) (see § 48.6420(b)-1). For rates of tax on gasoline under section 4081, see §§ 48.4081 and 48.4081-1. For meaning of the terms "used on a farm for farming purposes", "farm", "farming purposes", and "gasoline", see § 48.6420(c)-1.

(2) For purposes of determining the allowable payment in respect of gasoline used on a farm for farming purposes, gasoline on hand shall be considered used in the order in which it was purchased. Therefore, for example, if the owner, tenant, or operator of a farm has on hand gasoline purchased in September 1959, on which tax was paid under section 4081 at the rate of 3 cents a gallon and gasoline purchased in October 1959, on which tax was paid under section 4081 at the rate of 4 cents a gallon, he shall be considered to use all the gasoline on which the 3 cent tax was paid before using any of the gasoline on which the 4 cent tax was paid.

(b) *Ultimate purchaser defined.* For purposes of section 6420, the term "ultimate purchaser" includes only an owner, tenant, or operator of a farm. An owner, tenant, or operator of a farm is an ultimate purchaser of gasoline only with respect to such gasoline as is (1) purchased by him and (2) used for farming purposes on a farm of which he is the owner, tenant, or operator. Thus, the owner of a farm who purchases gasoline which is used on such farm by the owner, tenant, or operator thereof for farming purposes is, generally, the ultimate purchaser of such gasoline. If, however, the cost of gasoline supplied by a particular person, for example an owner of a farm, is by agreement or other arrangement borne by the tenant or operator of such farm, the tenant or operator who bore the cost of the gasoline is the ultimate purchaser of such gasoline. See, however, paragraph (c) of this section for provisions relating to circumstances under which an owner, tenant, or operator shall be treated as the user and ultimate purchaser of gasoline used on his farm by another person.

(c) *Exception with respect to use by custom operator, etc.* (1) Section 6420 provides a special rule with respect to gasoline used on a farm by a person other than the owner, tenant, or operator of such farm (as, for example, by a custom operator or independent contractor) in connection with (i) cultivating the soil, (ii) raising or harvesting any agricultural or horticultural commodity, or (iii) raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife. In such case, the owner, tenant, or operator of the farm on which the gasoline is used is deemed to be the ultimate purchaser and user of the gasoline. See paragraph (c)(2) of § 48.6420(c)-1 for explanation of what constitutes cultivating the soil, raising or harvesting any agricultural or horticultural commodity, and raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(2) The application of subparagraph (1) of this paragraph may be illustrated by the following examples:

Example (1). Farmer A hired a custom operator to perform work on his farm in connection with cultivating the soil. The custom operator used 200 gallons of gasoline which he had purchased in performing the work on A's farm. In addition, Farmer B, a neighbor, did some plowing on A's farm, using his own tractor and 50 gallons of gasoline which he had purchased. Farmer A is deemed to be the ultimate purchaser and user of the gasoline used on his farm by the custom operator and Farmer B and, therefore, is entitled to file a claim in respect of such gasoline. Accordingly, no claim in respect of such gasoline may be filed by either the custom operator or Farmer B.

Example (2). Farmer A contracted with the XYZ Company, engaged in the business of crop dusting by airplane, to have his crops dusted twice during the growing season. All of the gasoline used in the airplane was purchased by the XYZ Company. The gasoline actually consumed in the crop dusting operation amounted to 600 gallons. An additional 100 gallons of gasoline was used by the XYZ Company in flying the crop dusting plane from its base of operations to and from A's farm. Since the 600 gallons of gasoline were used on A's farm in connection with raising agricultural com-

modities (see paragraph (c)(2) of § 48.6420-(c)-(1)), A is deemed to be the ultimate purchaser and user of such gasoline and is entitled to file a claim in respect thereof. Since the 100 gallons of gasoline used in flying the plane to and from A's farm were not used on a farm for farming purposes, A may not claim payment in respect of such gasoline under section 6420. However, the XYZ Company is entitled to file a claim for payment in respect of such 100 gallons of gasoline under section 6421(a), relating to gasoline used for certain nonhighway purposes.

§ 48.6420(a)–2 Gasoline includible in claim.

Payment may be claimed under section 6420 only in respect of gasoline used on a farm in the United States for farming purposes. No payment is allowable under section 6420 with respect to gasoline used for nonfarming purposes, or gasoline used off a farm, regardless of the nature of such use. If a vehicle or other equipment is used both on a farm and off the farm, or if it is used on a farm both for farming and nonfarming purposes, payment is allowable only with respect to that portion of the gasoline which was "used on a farm for farming purposes" as defined in paragraph (a) of § 48.6420(c)–1. The type of equipment or vehicle and whether or not it is registered for highway use is immaterial. However, the actual use of the equipment or vehicle and place where it is used are material. For example, if a truck used on a farm for farming purposes is also used on the highways (even though in connection with operating the farm), the gasoline used in operating the truck on the highways is not to be taken into account in computing the payment for which a claim is filed, since such gasoline was used off the farm.

§ 48.6420(b) Statutory provisions; gasoline used on farms; time for filing claim; period covered.

SEC. 6420. *Gasoline used on farms.* * * *

(b) *Time for filing claim; period covered.* Not more than one claim may be filed under this section by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this section with respect to any one-year period unless filed on or before September 30 of the year in which such one-year period ends.

[Sec. 6420(b) as added and in effect Jan. 1, 1959]

§ 48.6420(b)–1 Claims.

(a) *In general.* Except as provided in paragraph (e) of this section, a claim in respect of gasoline used on a farm for farming purposes shall cover a full one-year period beginning July 1 and ending June 30 of the following calendar year. A claim for a particular one-year period shall cover only gasoline purchased after December 31, 1955, and used during such one-year period on a farm for farming purposes. Therefore, gasoline on hand at the end of such one-year period (as, for example, in fuel supply tanks of farm machinery or in storage tanks and drums, must be excluded from a claim filed for such one-year period. On the other hand, gasoline used during such one-year period may be covered by a claim for such period although such gasoline has not been paid for at the time the claim is filed. A claim in respect of gasoline used on a farm for farming purposes during any one-year period ending June 30 shall not be allowed unless such claim is filed on or before September 30 of the calendar year in which the one-year period ends. See section 7502 for provisions relating to timely mailing treated as timely filing, and section 7503 for rules for filing claim when September 30 falls on Saturday, Sunday, or a legal holiday.

(b) *Limit of one claim during any one-year period.* Not more than one claim may be filed under section 6420 by any person with respect to gasoline used during the one-year period beginning with July 1 and ending on June 30 of the following year.

(c) *Form and content of claim.* The claim for payment with respect to gasoline used on a farm for farming purposes shall be made on Form 2240 in accordance with the instructions prescribed for the preparation of such form. A claim for a partnership shall be made in the name of the partnership and signed by a member of the partnership. A corporation's claim shall be filed in the name of the corporation, and signed by a corporate officer. A claim may be executed by an agent of the claimant, but in such case a power of attorney must accompany the claim.

(d) *Filing of claim.* Claim on Form 2240, together with appropriate supporting evidence, shall be filed in the same name and with the same district director of internal revenue as the claimant filed his latest income tax or partnership return.

(e) *Death and termination.* (1) In the case of a decedent, or in the case of the termination or liquidation of a sole proprietorship, partnership, or corporation, claim may be filed with respect to gasoline used on a farm for farming purposes during the period beginning with July 1 of the one-year period in which death, termination, or liquidation occurs and ending with the date of death, termination, or liquidation. A claim for such period may be filed at any time after the date of death, termination, or liquidation, but must be filed not later than September 30 of the calendar year in which such one-year period ends.

(2) A claim on behalf of a deceased individual may be filed by his executor, administrator, or any other person charged with responsibility for the decedent's affairs. Such a claim must be accompanied by copies of the letters testamentary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer). The claim should cover only gasoline for which the decedent would have been entitled to claim payment. For example, if an individual dies on July 15, 1959, prior to claiming payment applicable to gasoline purchased by him and used on a farm for farming purposes during the one-year period ending June 30, 1959, his executor or other legal representative may file a claim covering this one-year period, and a second claim in respect of gasoline purchased by the decedent and so used during the period from July 1, 1959 to July 15, 1959, the date of death.

§ 48.6420(c) Statutory provisions; gasoline used on farms; meaning of terms.

SEC. 6420. *Gasoline used on farms.* * * *

(c) *Meaning of terms.* For purposes of this section—

(1) *Use on a farm for farming purposes.* Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade or business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) *Farm.* The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) *Farming purposes.* Gasoline shall be treated as used for farming purposes only if used—

(A) By the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator; except that if such use is by any person other than the owner, tenant, or operator of such farm, then (i) for purposes of this subparagraph, in applying subsection (a) to this subparagraph, and for purposes of section 6416(b)(2)(G)(ii) (but not for purposes of section 4041), the owner, tenant, or operator of the farm on which gasoline or a liquid taxable under section 4041 is used shall be treated as the user and ultimate purchaser of such gasoline or liquid, and (ii) for purposes of applying section 6416(b)(2)(G)(ii), any tax paid under section 4041 in respect of a liquid used on a farm for farming purposes (within the meaning of this subparagraph) shall be treated as having been paid by the owner, tenant, or operator of the farm on which such liquid is used;

(B) By the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) By the owner, tenant, or operator of a farm, in connection with—

(i) The planting, cultivating, caring for, or cutting of trees, or

(ii) The preparation (other than milling) of trees for market,

incidental to farming operations; or

(D) By the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

(4) *Gasoline.* The term "gasoline" has the meaning given to such term by section 4082(b).

[Sec. 6420(c) as added, amended, and in effect Jan. 1, 1959]

§ 48.6420(c)–1 Meaning of terms.

For purposes of the regulations in this subpart, unless otherwise expressly indicated—

(a) *Use on a farm for farming purposes*—(1) *In general.* The term "used on a farm for farming purposes" has application only to such gasoline as is used (i) in carrying on a trade or business,

(ii) on a farm in the United States, and (iii) for farming purposes.

(2) *Trade or business.* A person (including a partnership or corporation) is considered to be engaged in the trade or business of farming if such person cultivates, operates, or manages a farm for gain or profit, either as owner or tenant. A person who operates a garden plot, orchard, or farm for the primary purpose of growing produce for his own use is not considered to be engaged in the trade or business of farming. Generally, the operation of a farm does not constitute the carrying on of a trade or business if the farm is occupied by a person primarily for residential purposes, or is used primarily for the pleasure of such person or his family, such as for the entertainment of guests or as a hobby.

(b) *Farm.* The term "farm" includes stock (including feed yards for fattening cattle), dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, orchards, and such greenhouses and other similar structures as are used primarily for the raising of agricultural or horticultural commodities. Greenhouses and other similar structures used primarily for purposes other than the raising of agricultural or horticultural commodities (for example, display, storage, or fabrication of wreaths, corsages, and bouquets) do not constitute "farms".

(c) *Farming purposes*—(1) *In general.* Gasoline is considered to be used for farming purposes only if it is used as indicated in the following subparagraphs of this paragraph.

(2) *Gasoline used in connection with cultivating, raising, and harvesting.* (i) Gasoline is used for "farming purposes" when used on a farm by the owner, tenant, or operator of such farm in connection with cultivating the soil, or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife. Gasoline used on a farm for the purposes described in this subdivision by a person other than the owner, tenant, or operator of such farm shall also be considered to be used for "farming purposes". In such a case, the owner, tenant, or operator of the farm on which such gasoline is used by such other person shall be considered the ultimate purchaser and user of such gasoline (see paragraph (c) of § 48.6420 (a)–1).

(ii) The following are examples of operations which are considered for "farming purposes" within the meaning of subdivision (i) of this subparagraph: plowing, seeding, fertilizing, weed killing, crop dusting, corn or cotton picking, threshing, combining, baling, silo filling, and chopping silage. Gasoline is considered used for "farming purposes" if it is used in an airplane for any of the operations described in this subparagraph, such as for crop dusting or fertilizing.

(3) *Gasoline used in handling, drying, packing, grading, or storing.* (i) Gasoline is used for "farming purposes" if it is used on a farm by the owner, tenant, or operator of the farm in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state, but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period for which claim is filed.

(ii) Gasoline used in connection with operations other than those described in subdivision (i) of this subparagraph, such as canning, freezing, packaging, and processing operations, is not considered to be used for farming purposes, even though such operations are performed on a farm. Therefore, although gasoline used on a farm in connection with the production or harvesting of maple sap or crude gum (oleoresin) from a living tree is considered to be used for farming purposes under section 6420 (c) (3) (A), gasoline used in the processing (as distinguished from the gathering) of maple sap into maple sirup or maple sugar or used in the processing of crude gum (oleoresin) into gum spirits of turpentine and gum rosin is not used for farming purposes, even though such processing operations are conducted on a farm.

(iii) Processing operations which change a commodity from its raw or natural state, or operations performed with respect to a commodity after its character has been changed from its raw or natural state by a processing operation, do not come within the definition of farming purposes. For example, the extraction of juices from fruits or vegetables is a processing operation which changes the character of the fruits or vegetables from their raw or natural state and, therefore, gasoline used in such an operation is not used for "farming purposes".

(iv) The term "commodity", as used in this subparagraph, refers to a single agricultural or horticultural product. For example, all apples are treated as a single commodity, while apples and peaches are treated as two separate commodities. The operations with respect to each such commodity are to be considered separately in applying the "one-half" test described in subdivision (i) of this subparagraph.

(4) *Gasoline used in planting, cultivating, caring for, cutting, etc., of trees.* Gasoline is used "for farming purposes" if it is used on a farm by the owner, tenant, or operator of the farm in connection with planting, cultivating, caring for, or cutting of trees or in connection with the preparation (other than milling) of trees for market; but only if such operations are incidental to the farming operations of the owner, tenant, or operator of the farm. These operations include the felling of trees and cutting them into logs or firewood, but do not include sawing logs into lumber, chipping, or other milling operations. The operations specified in this subparagraph must be incidental to the farming operations of the farm on which they are performed or to the farming operations of the owner, tenant, or operator of the farm. Operations of the prescribed character will be considered "incidental to the farming operations" only if they are of a minor nature in comparison with the total farming operations involved. Therefore, a tree farmer or timbergrower may not claim payment under section 6420 with respect to gasoline used in connection with such trade or business.

(5) *Gasoline used in connection with the operation, management, conservation, improvement, or maintenance of a farm.* Gasoline is used "for farming purposes" if it is used by the owner, tenant, or operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment. Examples of these operations include clearing land, repairing fences and farm buildings, building terraces or irrigation ditches, cleaning tools or farm machinery, painting, and other activities which contribute in any way to the conduct of the farm, as such, as distinguished from any other enterprise in which the owner, tenant, or operator may be engaged. Since the gasoline must be used by the owner, tenant, or operator of the farm to which the operations relate, gasoline used by a commercial painting concern, for example, which contracts with a farmer to renovate his farm properties is not used for farming purposes. Gasoline used in a gasoline-powered lawn mower for maintaining a lawn is not used for "farming purposes".

(d) *Gasoline.* For purposes of section 6420, the term "gasoline" has the same meaning as in section 4082(b). See paragraph (b) of § 48.4082–1 for definition of gasoline.

§ 48.6420(d) Statutory provisions; gasoline used on farms; exempt sales; other payments or refunds available.

SEC. 6420. *Gasoline used on farms.* * * *

(d) *Exempt sales; other payments or refunds available.* No amount shall be paid under this section with respect to any gasoline which the Secertary or his delegate determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

[Sec. 6420(d) as added and in effect Jan. 1, 1959]

§ 48.6420(d)–1 Exempt sales; other payments or refunds available.

(a) *Exempt sales.* No payment shall be made under section 6420 with respect to gasoline which was exempt from the tax imposed by section 4081. For example, payment under section 6420 may not be made with respect to gasoline purchased by a State tax-free for its exclusive use, as provided in section 4221, which is used on a State prison farm for farming purposes.

(b) *Other payments or refunds available.* Any amount which, without regard to the second sentence of section 6420(d) and this paragraph, would be payable to any person under section 6420 with respect to any gasoline shall be reduced by any other amount which is payable under section 6420, or is refundable under any other provision of the Code, to any person with respect to such gasoline.

§ 48.6420(e) Statutory provisions; gasoline used on farms; applicable laws.

SEC. 6420. *Gasoline used on farms.* * * *

(e) *Applicable laws*—(1) *In general.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4031 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) *Examination of books and witnesses.* For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) *Fractional parts of a dollar.* Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

[Sec. 6420(e) as added and in effect Jan. 1, 1959]

§ 48.6420(e)–1 Applicable laws.

(a) *In general.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with section 6420, apply in respect of the payments provided for in section 6420 to the same extent as if such payments constituted refunds of overpayments of the tax imposed on the sale of gasoline under section 4081. For special rules applicable to the assessment and collection of amounts constituting excessive claims under section 6420, see section 6206 and the regulations thereunder. For civil penalty assessable in the case of excessive claims under section 6420, see section 6675 and the regulations thereunder.

(b) *Examination of books and witnesses.* Section 6420(e)(2) provides that the authority granted by paragraphs (1), (2), and (3) of section 7602 is applicable for the purpose of ascertaining—

(1) The correctness of any claim for payment made under section 6420, or

(2) The correctness of any payment made in respect of a claim for payment made under section 6420,

as if the person claiming payment under section 6420 were a person liable for tax.

(c) *Fractional part of a dollar.* Section 6420(e)(3) provides that section 7504, relating to fractional parts of a dollar, shall not apply with respect to payments under section 6420. Accordingly, payments authorized by section 6420 shall be made in the exact amount to which the claimant is entitled and shall not be rounded to the nearest whole dollar amount.

§ 48.6420(f) Statutory provisions; gasoline used on farms; regulations.

SEC. 6420. *Gasoline used on farms.* * * *

(f) *Regulations.* The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

[Sec. 6420(f) as added and in effect Jan. 1, 1959]

§ 48.6420(f)–1 Records to be kept.

(a) *In general.* Every person making a claim for payment under section 6420 shall keep records sufficient to enable the district director to determine whether such person is entitled to payment under such section and, if so, the amount of the payment. No particular form is prescribed for keeping the records, but the records should include a copy of the claim, together with a copy of any statement or document submitted with the claim, and, in addition, shall show with respect to the one-year period covered by the claim—

(1) The number of gallons of gasoline purchased and the dates of such purchases,

(2) The name and address of each vendor from whom gasoline was purchased and the total number of gallons purchased from each,

(3) The number of gallons of gasoline purchased by the claimant and used during the period covered by the claim for farming purposes on a farm of which he is the owner, tenant, or operator,

(4) The number of gallons of gasoline used during such period by a person other than the owner, tenant, or operator on a farm of which the claimant is the owner, tenant, or operator, in connection with cultivating the soil or raising or harvesting any agricultural or horticultural commodity, and

(5) Such other information as is necessary to establish the correctness of the claim.

Evidence of purchases of gasoline, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the gasoline dealer or other vendor, detailed records of all fuel used, showing amount consumed on a farm for farming purposes and amount used for other purposes, etc. Records maintained for Federal or State income tax purposes, or to support claims for refund of the State tax on gasoline, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim under section 6420. However, the records must show separately the number of gallons of gasoline used on a farm for farming purposes. In cases where trucks or other vehicles are used both on and off the farm, an allocation of gasoline used in the vehicles will be required to show separately the number of gallons of gasoline used on a farm for farming purposes in respect of which payment is claimed. In any case when the claimant is entitled to claim payment in respect of gasoline used on his farm by a person other than the owner, tenant, or operator thereof, the claimant must have records showing: (i) The name and address of the person who performed the farming operation; (ii) a description of the type of work (such as plowing, threshing, combining, etc.) and the type of equipment used; (iii) the date or dates on which the work was done, and (iv) the number of gallons of gasoline so used on the claimant's farm.

(b) *Place and period for keeping records.* (1) All records required by paragraph (a) of this section shall be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers. Such records shall at all times be available for inspection by such officers. If the claimant has a principal place of business in the United States, the records shall be kept at such place of business.

(2) Records required to substantiate a claim under section 6420 shall be maintained for a period of at least 3 years from the last date prescribed for the filing of the claim.

§ 48.6420(g) Statutory provisions; gasoline used on farms; effective date.

SEC. 6420. *Gasoline used on farms.* * * *

(g) *Effective date.* This section shall apply only with respect to gasoline purchased after December 31, 1955.

[Sec. 6420(g) as added and in effect Jan. 1, 1959]

§ 48.6420(h) Statutory provisions; gasoline used on farms; cross references.

SEC. 6420. *Gasoline used on farms.* * * *

(h) *Cross references.* (1) For exemption from tax in case of diesel fuel and special motor fuels used on a farm for farming purposes, see section 4041(d).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201) and following, relating to crimes, other offenses, and forfeitures.

[Sec. 6420(h) as added and in effect Jan. 1, 1959]

§ 48.6420(h)–1 Cross references.

(a) *Gasoline used by local transit systems or for certain nonhighway purposes other than farming.* For provisions with respect to payments to the ultimate purchaser of gasoline used for certain nonhighway purposes (other than farming) or by local transit systems, see section 6421 and the regulations thereunder.

(b) *Diesel fuel and special motor fuels used on a farm for farming purposes.* For provisions with respect to exemption from tax in the case of diesel fuel and special motor fuels used on a farm for farming purposes, see section 4041(d). For provisions with respect to credit or refund when such fuels are sold tax paid, and used on a farm for farming purposes, see section 6416.

§ 48.6421(a) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; nonhighway uses.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems*—(a) *Nonhighway uses.* If gasoline is used otherwise than as a fuel in a highway vehicle (1) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (2) which, in the case of a highway vehicle owned by the United States, is used on the highway, the Secretary or his delegate shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon.

[Sec. 6421(a) as added and in effect Jan. 1, 1959, and as amended by sec. 201(d)(2), Federal-Aid Highway Act 1959 (73 Stat. 615)]

§ 48.6421(a)–1 Payments to ultimate purchaser of gasoline used for certain nonhighway purposes.

(a) *In general.* (1) Section 6421(a) provides that if gasoline is used otherwise than as a fuel in a highway vehicle—

(i) Which, at the time the gasoline is so used, is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) Which, in the case of a highway vehicle owned by the United States, is used on the highway,

payment (without interest) in respect of such gasoline shall be made to the ultimate purchaser thereof. The payment shall be in an amount equal to 1 cent for each gallon of gasoline so used on which tax was paid under section 4081 at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid under section 4081 at the rate of 4 cents a gallon. However, payment in respect of gasoline used as provided in section 6421(a) shall be made only as to gasoline purchased by an ultimate purchaser after June 30, 1956, and prior to July 1, 1972, and only if a properly executed claim is filed by the ultimate purchaser within the time prescribed in section 6421(c) (see § 48.6421(c)–1). For meaning of the term "gasoline", see paragraph (b) of § 48.4082–1, and for the definition of "State", see section 7701. For provisions relating to payments in respect of gasoline used on a farm for farming purposes, see section 6420 and the regulations thereunder.

(2) If gasoline purchased by an ultimate purchaser and on hand consists of gasoline on which tax was paid under section 4081 at the rate of 3 cents a gallon and gasoline on which tax was paid under section 4081 at the rate of 4 cents a gallon, such gasoline shall be considered used in the order in which it was purchased. The following example illustrates the rule in this subparagraph: On October 15, 1959, A purchased 1,000 gallons of gasoline on which tax was paid at the rate of 4 cents a gallon. At the time of this purchase, A had on hand 2,000 gallons of gasoline on which tax was paid at the rate of 3 cents a gallon. The 3,000 gallons of gasoline were used as follows: (i) On October 16, 1959, 1,000 gallons of gasoline were put into registered highway vehicles; (ii) on October 17, 1959, 500 gallons were put into nonhighway vehicles; and (iii) on October 18, 1959, 1500 gallons were put into registered highway vehicles. The 1,000 gallons of gasoline put into registered highway vehicles on October 16 and the 500 gallons of gasoline put into nonhighway vehicles on October 17 constitute gasoline on which tax was paid at the rate of 3 cents a gallon. Of the 1,500 gallons of gasoline put into registered highway vehicles on October 18, 500 gallons consists of gasoline on which tax was paid at the rate of 3 cents a gallon and 1,000 gallons consists of gasoline on which tax was paid at the rate of 4 cents a gallon.

(b) *Uses which qualify for payment.* Gasoline in respect of which payment may be made under section 6421(a) includes, for example, gasoline used in nonhighway vehicles, gasoline used in stationary engines to operate pumps, generators, compressors, etc., gasoline used for cleaning purposes, and gasoline used in motor boats, aircraft, fork-lifts, etc. Payment may also be made in respect of gasoline used in a highway vehicle (other than one owned by the United States) if at the time the gasoline is used the vehicle:

(1) Is not registered for highway use under the law of any State or foreign country, and

(2) Is not required to be registered for highway use under the law of the State or foreign country in which it is operated or situated.

Any highway vehicle which is operated under a dealer's tag, license, or permit is considered to be registered. A highway vehicle is not considered to be registered solely by reason of the fact that there has been issued a special permit for operation of the vehicle at particular times and under specified conditions.

(c) *Meaning of terms*—(1) *Highway vehicles.* The term "highway vehicle" has reference to the type of vehicle and not to the use which is made of the vehicle. The term means any vehicle which is propelled by its own motor or engine and which is of the type used for highway transportation. Such term does not include any vehicle which moves exclusively on rails. It does include automobile trucks, buses, highway tractors, trolley buses, and other similar type vehicles. The term "highway vehicle" does not include any vehicle, which, although propelled by means of its own motor, is of a type not used for highway transportation, that is, of a type designed and manufactured for a purpose other than highway transportation. For example, vehicles such as earth movers, power shovels, trench diggers, and bulldozers, which are designed and manufactured as self-propelled units for "off-the-road" operations, are not highway vehicles. Neither are such motorized vehicles as road graders or rollers, which are designed and manufactured for construction or maintenance of roads, considered to be highway vehicles. The same is true of farm tractors, cotton pickers, and other motorized agricultural implements of a similar nature. However, the fact that equipment or machinery having a specialized use (as for example, an air compressor, crane, or specialized oil-field machinery) is mounted on a vehicle which, apart from such equipment or machinery, is of a type used for highway transportation will not remove such vehicle from classification as a highway vehicle.

(2) *Highway.* The term "highway" includes any road (whether a Federal highway, State highway, city street, or otherwise) in the United States which is not a private roadway.

(d) *Dual use of gasoline.* No payment shall be made in respect of gasoline used in a highway vehicle solely by reason of the fact that the motor in such vehicle is also used for a purpose other than the propulsion of the vehicle. Thus, if the motor of a highway vehicle operates special equipment, such as a mixing unit on a concrete mixer truck, or a pump for discharging fuel from a tank truck, by means of a power take-off, no payment shall be made in respect of the gasoline used to operate such special equipment, regardless of whether or not the special equipment is mounted on the highway vehicle. However, if a highway vehicle is equipped with a separate motor to operate the special equipment, such as a refrigeration unit, pump generator, mixing unit, etc., a claim may be filed in respect of the gasoline used in the separate motor. In those cases where the gasoline used in a separate motor is drawn from the same tank as the one which supplies gasoline for the propulsion of the vehicle, the determination as to the quantity of gasoline used in the separate motor operating the special equipment must be based on operating experience and supported by records.

(e) *Gasoline lost or destroyed.* Gasoline lost or destroyed through spillage, fire, or other casualty is not considered to have been "used" within the meaning of section 6421 (a) and, accordingly, payment in respect of such gasoline may not be made.

(f) *Illustration.* The provisions of this section may be illustrated by the following example:

Example. During the one-year period July 1, 1958, to June 30, 1959, inclusive, the XYZ Corporation, a logging company, used 20,000 gallons of gasoline all of which was purchased subsequent to June 30, 1958. Of this amount, 12,000 gallons were used as fuel in registered highway vehicles which were operated both on the public highways and on the company's private roads. Of the remaining 8,000 gallons, 6,000 were used in nonhighway vehicles, such as tractors, bulldozers, etc., and 2,000 gallons were used in highway vehicles, such as heavy trucks, which at the time of such use were neither registered, nor required to be registered, for highway use by reason of being operated entirely on the company's property. The XYZ Corporation, as the ultimate purchaser, may file a claim under section 6421(a) in respect of the 6,000 gallons used in the nonhighway vehicles and the 2,000 gallons used in the unregistered highway vehicles. However, no payment may be made with respect to the 12,000 gallons used in the registered highway vehicles, even though a portion of this gasoline was used in operating the vehicles on the company's own property.

§ 48.6421(b) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; local transit systems.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.* * * *

(b) *Local transit systems*—(1) *Allowance.* If gasoline is used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, the Secretary or his delegate shall, subject to the provisions of paragraph (2), pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(A) 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon, by

(B) The percentage which the ultimate purchaser's tax-exempt passenger fare revenue derived from such scheduled service during such quarter was of his total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax

on transportation of persons) derived from such scheduled service during such quarter.

(2) *Limitation.* Paragraph (1) shall apply in respect of gasoline used during any calendar quarter only if at least 60 percent of the total passenger fare revenue (not including the tax imposed by section 4261, relating to the tax on transportation of persons) derived during such quarter from scheduled service described in paragraph (1) by the person filing the claim was attributable to tax-exempt passenger fare revenue derived during such quarter by such person from such scheduled service.

[Sec. 6421 as added and in effect Jan. 1, 1959, and as amended by sec. 201(d)(2), Federal-Aid Highway Act 1959 (73 Stat. 615)]

§ 48.6421(b)–1 Payments to ultimate purchaser of gasoline used by local transit systems.

(a) *In general.* (1) Section 6421(b) provides that if gasoline is used during any calendar quarter in vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service long regular routes, payment (without interest) in respect of such gasoline shall be made to the ultimate purchaser thereof provided the 60-percent passenger fare revenue test set forth in section 6421(b)(2) (see paragraph (b) of this section) is met for such calendar quarter. The payment in respect of gasoline so used in a particular calendar quarter is computed:

(i) By multiplying the number of gallons of gasoline so used in the calendar quarter on which tax was paid under section 4081 at the rate of 3 cents a gallon by 1 cent and by multiplying the number of gallons of gasoline so used in the calendar quarter on which tax was paid under section 4081 at the rate of 4 cents a gallon by 2 cents, and by multiplying the sum of these two products by

(ii) The percentage which the ultimate purchaser's tax-exempt passenger fare revenue derived from such scheduled service during such calendar quarter was of his total passenger fare revenue (not including the tax imposed by section 4261 on the amount paid for the transportation of persons) derived from such scheduled service during such quarter.

However, payment in respect of gasoline used as provided in section 6421(b)(1) shall be made only as to gasoline purchased by an ultimate purchaser after June 30, 1956, and prior to July 1, 1972, and only if a properly executed claim is filed by the ultimate purchaser within the time prescribed in section 6421(c) (see § 48.6421(c)–1). For meaning of the terms "gasoline" and "tax-exempt passenger fare revenue", see paragraph (b) of § 48.4082–1 and paragraph (b) of § 48.6421(d)–1, respectively.

(2) If gasoline purchased by a transit company and on hand consists of gasoline on which tax was paid under section 4081 at the rate of 3 cents a gallon and gasoline on which tax was paid under section 4081 at the rate of 4 cents a gallon, such gasoline shall be considered used in the order in which it was purchased. For an example of the operation of this rule, see paragraph (a)(2) of § 48.6421(a)–1.

(b) *60-percent passenger fare revenue test.* For purposes of section 6421 and this section, the "60-percent passenger fare revenue test" is met in a particular calendar quarter if during the calendar quarter the person filing a claim for payment under section 6421(b)—

(1) Derived passenger fare revenue from the operation of scheduled common carrier public passenger land transportation service along regular routes, and

(2) At least 60-percent of the total of such passenger fare revenue was tax-exempt passenger fare revenue.

In determining the total of such passenger fare revenue, the tax imposed by section 4261 is not to be taken into account for that purpose, nor is revenue from such sources as charter fees, rentals of property, advertising receipts, etc., to be included for that purpose.

(c) *Calendar quarter defined.* As used in section 6421(b), "calendar quarter" means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

(d) *Illustration.* The provisions of this section may be illustrated by the following example:

Example. The XYZ Corporation operates a local transit system furnishing scheduled common carrier public passenger land transportation service along regular routes in the city of Grandville and also operates a similar intercity service to Jonesboro. The major portion of its passenger fare revenue derived from furnishing the service in Grandville is exempt from the tax imposed by section 4261 on amounts paid for transportation of persons. However, most of the Corporation's passenger fare revenue derived from the intercity service to Jonesboro is subject to the tax imposed by section 4261. In addition, the Corporation derives income from charter, special, and sightseeing service, limousine rentals, and the rental of advertising space in its buses. A compilation, by calendar quarters, of the Corporation's revenue from all sources and of the gasoline it purchased after June 30, 1956, and used during the one-year period July 1, 1958 to June 30, 1959, inclusive, is shown in Table I as follows:

TABLE I—COMPANY'S COMPUTATION OF REVENUE

	1958 July, Aug., and Sept.	1958 Oct., Nov., and Dec.	1959 Jan., Feb., and March	1959 April, May, and June
1. Tax-exempt passenger fare revenue from scheduled service along regular routes	$78,500	$104,650	$99,450	$110,000
2. Taxable passenger fare revenue from scheduled service along regular routes (exclusive of tax)	$18,500	$11,350	$15,550	$17,000
3. Total passenger fare revenue derived from scheduled service along regular routes (exclusive of tax)	$97,000	$116,000	$115,000	$127,000
4. Ratio of tax-exempt passenger fare revenue to total passenger fare revenue from scheduled service along regular routes (item 1 divided by item 3)	80.93%	90.22%	86.48%	86.61%
5. Revenue from charter fees, limousine rentals, advertising, rents, etc.	$7,000	$5,000	$4,000	$6,000
Company's Computation of Gasoline Used				
6. Number of gallons used in furnishing scheduled service along regular routes	44,000	53,000	52,000	58,000
7. Gasoline used in charter, special and sightseeing operations, limousines, company cars	8,000	8,500	9,000	9,200
8. Gasoline used in shop machinery, for cleaning purposes, and other nonhighway uses	3,000	4,000	2,000	3,000
9. Total gasoline used	55,000	65,500	63,000	70,200

The XYZ Corporation, as indicated in Table I, has met the 60-percent passenger fare revenue test for each calendar quarter of the one-year period, July 1, 1958 to June 30, 1959, inclusive. Therefore, the Corporation may file a claim with respect to all the gasoline used in its transit vehicles while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes during each of the four quarters (item 6 of Table I). If the Corporation had failed to meet the 60-percent passenger fare revenue test for any one of the calendar quarters, it could nevertheless, file a claim for payment in respect of gasoline used in the prescribed manner during the other three calendar quarters. In addition, under the provisions of § 48.6421(a)–1, the Corporation may claim payment in respect of gasoline used for nonhighway purposes, for example, in its machine shops, for cleaning purposes, etc., (item 8 of Table I), irrespective of whether the company meets the 60-percent passenger fare revenue test for the calendar quarter in which the gasoline was so used. No claim may be filed, however, in respect of gasoline used in buses while providing charter, special, and sightseeing service, or used in service vehicles, such as repair and tow trucks, company cars, etc., (item 7 of Table I), as none of these vehicles were engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes. The amount of payment which the Corporation may claim is, therefore, computed as follows (it should be noted that since all of the gasoline involved was purchased before October 1, 1959, it consists only of gasoline on which tax was paid under section 4081 at the rate of 3 cents a gallon):

TABLE II—COMPUTATION OF PAYMENT

	1958 July, Aug., and Sept.	1958 Oct., Nov., and Dec.	1959 Jan., Feb., and March	1959 April, May, and June
1. Number of gallons of gasoline used in scheduled service (item 6 of Table I) multiplied by 1 cent	44,000 ×$0.01	53,000 ×$0.01	52,000 ×$0.01	58,000 ×$0.01
	$440.00	$530.00	$520.00	$580.00
2. Ratio of tax-exempt passenger fare revenue (item 1 of Table I) to total passenger fare revenue (item 3 of Table I). Percentage is shown in item 4 of Table I	80.93%	90.22%	86.48%	86.61%
3. Amount shown in item 1 of this table multiplied by percentage in item 2 of this table equals amount of allowable payment in respect of gas used in transit vehicles	$356.09	$478.17	$449.70	$502.34
4. Payment of 1 cent a gallon is allowable on all gasoline used in other than highway vehicles, such as stationary motors, pumps, compressors, cleaning purposes, etc. This gasoline is shown in item 8 of Table I.....gal.	3,000 ×$0.01	4,000 ×$0.01	2,000 ×$0.01	3,000 ×$0.01
	$30.00	$40.00	$20.00	$30.00
5. Total amount which may be claimed	$386.09	$518.17	$469.70	$532.34
6. Grand total				$1,906.30

§ 48.6421(c) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; time for filing claims; period covered.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.* * * *

(c) *Time for filing claims; period covered*—(1) *General rule.* Except as provided in paragraph (2), not more than one claim may be filed under subsection (a), and not more than one claim may be filed under subsection (b), by any person with respect to gasoline used during the one-year period ending on June 30 of any year. No claim shall be allowed under this paragraph with respect to any one-year period unless filed on or before September 30 of the year in which such one-year period ends.

(2) *Exception.* If $1,000 or more is payable under this section to any person with respect to gasoline used during a calendar quarter, a claim may be filed under this section by such person with respect to gasoline used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed.

[Sec. 6421(c) as added, amended, and in effect Jan. 1, 1959]

§ 48.6421(c)–1 Claims.

(a) *Period covered; time for filing*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph and paragraph (d) of this section, a claim in respect of gasoline used for nonhighway purposes or by local transit systems shall cover a full one-year period beginning July 1 and ending June 30 of the following calendar year. A claim for a particular one-year period shall cover only gasoline purchased after June 30, 1956, and prior to July 1, 1972, and used during such one-year period for nonhighway purposes or by local transit systems. Therefore, gasoline on hand at the end of such one-year period (as, for example, in fuel supply tanks or in storage tanks and drums) must be excluded from a claim filed for such one-year period. On the other hand, gasoline used during such one-year period may be covered by a claim for such period although such gasoline has not been paid for at the time the claim is filed. A claim in respect of gasoline used for nonhighway purposes or by local transit systems during any one-year period ending June 30 shall not be allowed unles such claim is filed on or before September 30 of the calendar year in which the one-year period ends. See section 7502 for provisions relating to timely mailing treated as timely filing, and section 7503 for rules for filing claim when September 30 falls on Saturday, Sunday, or a legal holiday.

(2) *Quarterly claims.* Quarterly claims may be filed with respect to gasoline used for nonhighway purposes or by local transit systems during any calendar quarter, if the allowable payment for that quarter is $1,000 or more. The $1,000 requirement relates to amounts payable in respect of gasoline used during a single calendar quarter and, therefore, amounts payable in respect of gasoline used in more than one quarter may not be aggregated in order to meet such $1,000 requirement. A quarterly claim in respect of gasoline used during any calendar quarter shall not be allowed unless the claim is filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed. Amounts payable in respect of gasoline used during calendar quarters for which quarterly claims were not filed should be included in an annual claim filed pursuant to subparagraph (1) of this paragraph.

(b) *Form of claim*—(1) *Form and execution.* Each claim for payment in respect of gasoline used for nonhighway purposes or by local transit systems shall be made on Form 843 in accordance with the applicable regulations in this Subpart and with the instructions prescribed for the preparation of such form, and shall designate the period for which the claim is filed. Copies of Form 843 may be obtained from any district director of internal revenue. A claim may be executed by an agent of the claimant, but in such case a power of attorney must accompany the claim.

(2) *Supporting evidence*—(i) *Nonhighway uses.* Each claim in respect of gasoline used for nonhighway purposes shall include a statement showing:

(*a*) The total number of gallons of gasoline purchased and used during the period covered by the claim for nonhighway purposes, multiplied by the rate of payment allowable in respect of such gasoline (1 or 2 cents, as the case may be).

(*b*) The purpose or purposes for which the gasoline was used and the amount used for each purpose. A listing of uses by general categories will be sufficient for this purpose.

(*c*) The name and address of the vendor or vendors from whom gasoline was purchased and the total number of gallons of gasoline purchased from each (if gasoline used during the period covered by the claim consists of gasoline on which different rates of tax were paid under section 4081, the date and amount of each purchase must be indicated).

(*d*) The internal revenue district in which the claimant filed his last income tax return.

(ii) *Transit systems.* Each claim in respect of gasoline used by a local transit system shall have as an attachment a statement setting forth the following information with respect to each calendar quarter covered by the claim:

(*a*) The number of gallons of gasoline used in vehicles solely while engaged in furnishing scheduled common carrier public passenger land transportation service along regular routes, multiplied by the rate of payment allowable in respect of such gasoline (1 or 2 cents as the case may be). Gasoline used in charter, special, and sightseeing service, limousine service, etc., should not be included.

(*b*) The total passenger fare revenue (not including the tax imposed by section 4261) derived from the scheduled service described in (*a*) of this subdivision.

(*c*) The amount of such total passenger fare revenue which was not subject to the tax imposed by section 4261 on amounts paid for the transportation of persons.

(*d*) A computation showing the percentage which the tax-exempt passenger fare revenue derived from the scheduled service was of the total passenger fare revenue ((*c*) divided by (*b*)).

(*e*) A computation showing the amount of the claim in respect of gasoline used in furnishing scheduled common carrier public passenger land transportation service along regular routes (i.e., the result shown in (*a*) multiplied by the percentage shown in (*d*)).

(*f*) The total number of gallons of gasoline purchased and used as provided in section 6421(a) (see paragraph (b) of § 48.6421(a)–1) multiplied by the rate of payment allowable in respect of such gasoline (1 or 2 cents as the case may be).

(*g*) The total of the amounts computed in (*e*) and (*f*) of this subdivision. Such total should equal the amount of the payment claimed.

(*h*) The names and addresses of the gasoline suppliers and the total amount purchased from each (if gasoline used during the period covered by the claim consists of gasoline on which different rates of tax were paid under section 4081,

the date and amount of each purchase must be indicated).

(*i*) The internal revenue district in which the claimant's last income tax return was filed.

(iii) *Example.* Following is an example of the statement to be submitted by a transit system to support a claim for payment that covers a full one-year period beginning July 1958:

TABLE III—EXAMPLE OF TRANSIT SYSTEM STATEMENT SUPPORTING CLAIM

	1958 July, Aug., and Sept.	1958 Oct., Nov., and Dec.	1959 Jan., Feb., and March	1959 April, May, and June	Total
1. Number of gallons of gasoline used in transit vehicles furnishing regular, scheduled services, etc., multiplied by 1 cent	44,000 ×$0.01	53,000 ×$0.01	52,000 ×$0.01	58,000 ×$0.01	
	$440.00	$530.00	$520.00	$580.00	
2. Total passenger fare revenue derived from scheduled service along regular routes, etc., (exclusive of Federal excise tax)	$97,000	$116,000	$115,000	$127,000	
3. Amount of passenger fare revenue in item 2 of this table not subject to Federal excise tax	$78,500	$104,650	$99,450	$110,000	
4. Percentage of tax-exempt passenger fare revenue to total passenger fare revenue (item 3 divided by item 2)	80.93%	90.22%	86.48%	86.61%	
5. Computation showing allowable amount of payment. (Amount shown in item 1 times percentage shown in item 4)	$356.09	$478.17	$449.70	$502.34	$1,786.30
6. Number of gallons of gasoline purchased and used in machine shops, other than registered highway vehicles, etc., multiplied by 1 cent	3,000 ×$0.01	4,000 ×$0.01	2,000 ×$0.01	3,000 ×$0.01	
	$30.00	$40.00	$20.00	$30.00	$120.00
7. Total of items 5 and 6 (amount of payment allowable)	$386.09	$518.17	$469.70	$532.34	$1,906.30

8. Names and addresses of gasoline suppliers and total amounts of gasoline purchased from each during the year July 1, 1958, through June 30, 1959:

	Gallons
ABC Refining Co., 241 Main St., Grandville, Ohio	162,000
The Home Fuel Supply Co., 1201 Elm St., Grandville, Ohio	63,000
E. C. Davis Bros., 345 State St., Middletown, Ohio	30,000
	255,000

9. Income tax return for calendar year 1958 filed with District Director of Internal Revenue, Cleveland, Ohio.

(c) *Filing of claim.* Claim on Form 843, together with appropriate supporting evidence, shall be filed in the same name and with the same district director of internal revenue as the claimant filed his latest income tax or partnership return.

(d) *Death and termination.* (1) In the case of a decedent, or in the case of the termination or liquidation of a sole proprietorship, partnership, or corporation, claim may be filed with respect to gasoline used for nonhighway purposes or by local transit systems during the period beginning with July 1 of the one-year period in which death, termination, or liquidation occurs and ending with the date of death, termination, or liquidation. A claim for such period may be filed at any time after the date of death, termination, or liquidation, but must be filed not later than September 30 of the calendar year in which such one-year period ends.

(2) A claim on behalf of a deceased individual may be filed by his executor, administrator, or any other person charged with responsibility for the decedent's affairs. Such a claim must be accompanied by copies of the letters testamentary, letters of administration, or, in the case of a claim filed by other than the executor or administrator, the information called for in Form 1310 (Statement of Claimant to Refund Due on Behalf of Deceased Taxpayer). The claim should cover only gasoline for which the decedent would have been entitled to claim payment. For example, if an individual dies on July 15, 1959, prior to claiming payment applicable to gasoline purchased by him and used for nonhighway purposes during the one-year period ending June 30, 1959, his executor or other legal representative may file a claim covering this one-year period, and a second claim in respect of gasoline purchased by the decedent and so used during the period from July 1, 1959 to July 15, 1959, the date of death.

§ 48.6421(d) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; definitions.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.*
* * *

(d) *Definitions.* For purposes of this section—

(1) *Gasoline.* The term "gasoline" has the meaning given to such term by section 4082(b).

(2) *Tax-exempt passenger fare revenue.* The term "tax-exempt passenger fare revenue" means revenue attributable to fares which were exempt from the tax imposed by section 4261 by reason of section 4263(a) (relating to the exemption for commutation travel, etc.).

[Sec. 6421(d) as added, amended, and in effect Jan. 1, 1959]

§ 48.6421(d)–1 Definitions.

(a) *Gasoline.* For the meaning of the term "gasoline", as used in section 6421, see paragraph (b) of § 48.4082–1.

(b) *Tax-exempt passenger fare revenue.* As used in section 6421(b) and §§ 48.6421(b)–1 and 48.6421(c)–1, the term "tax-exempt passenger fare revenue" means fares which, pursuant to the provisions of section 4263(a) (relating to commutation travel, etc.), are exempt from the tax imposed by section 4261 on amounts paid for the transportation of persons.

§ 48.6421(e) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; exempt sales; other payments or refunds available.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.*
* * *

(e) *Exempt sales; other payments or refunds available*—(1) *Exempt sales.* No amount shall be paid under this section with respect to any gasoline which the Secretary or his delegate determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary or his delegate determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(2) *Gasoline used on farms.* This section shall not apply in respect of gasoline which was (within the meaning of paragraphs (1), (2), and (3) of section 6420(c)) used on a farm for farming purposes.

[Sec. 6421(e) as added and in effect Jan. 1, 1959]

§ 48.6421(e)–1 Exempt sales; other payments or refunds available.

(a) *Exempt sales.* (1) No payment shall be made under section 6421 with respect to gasoline which was exempt from the tax imposed by section 4081. For example, payment under section 6421 may not be made with respect to gasoline purchased tax-free for use as supplies for certain vessels and airplanes, or with respect to gasoline purchased by a State tax-free for its exclusive use, as provided in section 4221.

(2) Any amount which, without regard to the second sentence of section 6421(e)(1) and this subparagraph, would be payable to any person under section 6421 shall be reduced by any other amount which is payable under section 6421, or is refundable under any other provision of the Code, to any person with respect to such gasoline.

(b) *Gasoline used on farms.* Payments with respect to gasoline used on a farm for farming purposes must be claimed under section 6420 (see § 48.6420) and no claim in respect of such gasoline may be made under section 6421.

§ 48.6421(f) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; applicable laws.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.*
* * *

(f) *Applicable laws*—(1) *In general.* All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) *Examination of books and witnesses.* For the purpose of ascertaining the correct-

ness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

[Sec. 6421(f) as added and in effect Jan. 1, 1959]

§ 48.6421(f)–1 Applicable laws.

(a) *In general.* Section 6421(f)(1) provides that all provisions of law, including penalties, applicable in respect of the tax on the sale of gasoline imposed by section 4081 shall, insofar as applicable and not inconsistent with section 6421, apply in respect of payments provided for in section 6421 to the same extent as if such payments constituted refunds of overpayments of the tax imposed on the sale of gasoline by section 4081. For special rules applicable to the assessment and collection of any portion of a payment made under section 6421 in excess of the amount authorized by such section, see section 6206 and the regulations thereunder. For civil penalty assessable in the case of excessive claims under section 6421, see section 6675 and the regulations thereunder.

(b) *Examination of books and witnesses.* Section 6421(f)(2) provides that the authority granted by paragraphs (1), (2), and (3) of section 7602 is applicable for the purpose of ascertaining—

(1) The correctness of any claim for payment made under section 6421, or

(2) The correctness of any payment made in respect of a claim for payment made under section 6421,

as if the person claiming payment under section 6421 were a person liable for tax.

§ 48.6421(g) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; regulations.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.* * * *

(g) *Regulations.* The Secretary or his delegate may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

[Sec. 6421(g) as added and in effect Jan. 1, 1959]

§ 48.6421(g)–1 Records to be kept.

(a) *In general.* Every person making a claim for payment under section 6421 shall keep records sufficient to enable the district director to determine whether such person is entitled to payment under such section and, if so, the amount of the payment. No particular form is prescribed for keeping the records, but the records should include a copy of the claim, together with a copy of any statement or document submitted with the claim, and, in addition, shall show with respect to the period covered by the claim—

(1) The number of gallons of gasoline purchased and the dates of such purchases,

(2) The name and address of each vendor from whom gasoline was purchased and the total number of gallons purchased from each,

(3) The number of gallons of gasoline used, during the period covered by the claim, for nonhighway purposes, as provided in section 6421(a), or by a local transit system, as provided by section 6421(b), and

(4) Such other information as is necessary to establish the correctness of the claim.

Evidence of purchases of gasoline, and the purposes for which it was used, to substantiate claims may include paid duplicate sales invoices or tickets from the gasoline dealer or other vendor, detailed records of all fuel used, showing amount consumed in registered highway vehicles and amount used for other purposes, etc. Records maintained for Federal or State income tax purposes, or to support claims for refund of the State tax on gasoline, may be used to the extent that they contain the information necessary to substantiate the accuracy of the claim under section 6421. However, the records must show separately the number of gallons of gasoline used for nonhighway purposes or by local transit systems during the period covered by the claim:

(b) *Local transit systems.* In addition to the foregoing records, a local transit system claiming payment under section 6421(b) shall keep records to establish for each calendar quarter:

(1) The total passenger fare revenue derived from scheduled common carrier public passenger land transportation service along regular routes (not including the tax imposed by section 4261), and

(2) The tax-exempt passenger fare revenue derived from such scheduled service.

(c) *Place and period for keeping records.* (1) All records required by paragraphs (a) and (b) of this section shall be kept by the claimant at a convenient and safe location within the United States which is accessible to internal revenue officers. Such records shall at all times be available for inspection by such officers. If the claimant has a principal place of business in the United States, the records shall be kept at such place of business.

(2) Records required to substantiate a claim for payment under section 6421 shall be maintained for a period of at least 3 years after the last date prescribed for the filing of the claim.

§ 48.6421(h) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; effective date.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.* * * *

(h) *Effective date.* This section shall apply only with respect to gasoline purchased after June 30, 1956, and before July 1, 1972.

[Sec. 6421(h) as added and in effect Jan. 1, 1959]

§ 48.6421(i) Statutory provisions; gasoline used for certain nonhighway purposes or by local transit systems; cross references.

SEC. 6421. *Gasoline used for certain nonhighway purposes or by local transit systems.* * * *

(i) *Cross references.* (1) For reduced rate of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see subsections (a) and (b) of section 4041.

(2) For partial refund of tax in case of diesel fuel and special motor fuels used for certain nonhighway purposes, see section 6416(b)(2) (I) and (J).

(3) For partial refund of tax in case of diesel fuel and special motor fuels used by local transit systems, see section 6416(b)(2)(H).

(4) For civil penalty for excessive claims under this section, see section 6675.

(5) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

§ 48.6675 Statutory provisions; excessive claims with respect to the use of certain gasoline.

SEC. 6675. *Excessive claims with respect to the use of certain gasoline*—(a) *Civil penalty.* In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms) or 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

(1) Two times the excessive amount; or

(2) $10.

(b) *Excessive amount defined.* For purposes of this section, the term "excessive amount" means in the case of any person the amount by which—

(1) The amount claimed under section 6420 or 6421, as the case may be, for any period, exceeds

(2) The amount allowable under such section for such period.

(c) *Assessment and collection of penalty.* For assessment and collection of penalty provided by subsection (a), see section 6206.

[Sec. 6675 as added, amended, and in effect Jan. 1, 1959]

§ 48.6675–1 Excessive claims under section 6420 or 6421.

(a) *Civil penalty.* Any person making a claim under section 6420 (relating to gasoline used on farms) or section 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems) for an excessive amount shall be liable, in addition to any criminal penalty provided by law, to a penalty in an amount equal to the greater of the following:

(1) Two times the excessive amount, or

(2) Ten dollars,

unless such person shows that the making of the excessive claim was due to reasonable cause. For provisions relating to the assessment and collection of the civil penalty provided by section 6675, see section 6206 and the regulations thereunder.

(b) *Excessive amount defined.* For purposes of section 6675(a), the term "excessive amount" means the amount by which—

(1) The claim for payment under section 6420 or section 6421 exceeds

(2) The amount of payment allowable under such section for the period covered by the claim.

[F.R. Doc. 59-9101; Filed, Oct. 27, 1959; 8:48 a.m.]

[26 CFR (1954) Part 48]

MANUFACTURERS AND RETAILERS EXCISE TAXES

Gasoline or Lubricating Oil; Registration and Bonding of Persons Subject to Tax and Inspection of Records With Respect to Tax by State and Local Tax Officers

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: T:P, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

The following regulations are prescribed under sections 4091, 4092, and 4093, relating to the tax on the sale of lubricating oil; section 4101, relating to registration and bonding of persons subject to tax on the sale of gasoline or lubricating oil; and section 4102, relating to inspection by State or local government officials of records, including returns, reports, and statements, required in respect of such taxes, of the Internal Revenue Code of 1954 as in effect on January 1, 1959.

Subpart H—Motor Vehicles, Tires, Tubes, Tread Rubber, Gasoline, and Lubricating Oil

LUBRICATING OIL

SPECIAL PROVISIONS APPLICABLE TO PETROLEUM PRODUCTS

LUBRICATING OIL

§ 48.4091 Statutory provisions; imposition of tax.

SEC. 4091. *Imposition of tax.* There is hereby imposed upon the following articles sold in the United States by the manufacturer or producer a tax at the following rates, to be paid by the manufacturer or producer:

(1) Cutting oils, 3 cents a gallon; and

(2) Other lubricating oils, 6 cents a gallon.

[Sec. 4091 as amended and in effect Jan. 1, 1959]

§ 48.4091–1 Tax on lubricating oils.

(a) *Imposition of tax.* Section 4091 imposes a tax on lubricating oils (including cutting oils) sold in the United States by the manufacturer of such oils. For definition of the term "cutting oils", see § 48.4092–1.

(b) *Rates and computation of tax*—(1) *Rate of tax.* Tax is imposed upon each of the above-mentioned taxable articles at the rates specified below:

	Cents per gallon
(i) Cutting oils	3
(ii) Other lubricating oils	6

(2) *Computation of tax.* The tax is computed by applying to the number of gallons of lubricating oils sold the rate applicable to the type of lubricating oil sold. In the case of nonfluid lubricating oils which are sold by weight, 8 pounds to the gallon may be used as the basis for computing the tax.

§ 48.4091–2 Definitions.

(a) *Lubricating oils.* The term "lubricating oils" includes all oils, regardless of origin, which:

(1) Are suitable for use as a lubricant, or

(2) Are sold for use as a lubricant.

The term does not include synthetic materials which possess lubricating properties, nor does it ordinarily include products of the type commonly known as grease. Oleaginous substances which are classed as grease and which contain oil are not subject to the tax when of a worked consistency of less than 390 penetration units, or an unworked consistency of less than 360 penetration units, by the method of test of the American Society for Testing Materials D–217–52–T.

(b) *Manufacturer.* (1) For purposes of the tax imposed under section 4091, the term "manufacturer" includes:

(i) Any person who produces lubricating oil by any process of manufacturing, refining, or compounding, or any manipulation involving substantially more than mere mixing of taxable oils, and

(ii) Any person who produces lubricating oil by mixing taxable oils with other substances.

(2) For purposes of the tax imposed under section 4091, the term "manufacturer" does not include:

(i) Any person who merely blends or mixes two or more taxable oils,

(ii) Any person who merely cleans, renovates, or refines used or waste lubricating oil, or

(iii) Any person who merely blends or mixes one or more taxable oils with used or waste lubricating oil which has been cleaned, renovated, or refined.

Neither does the term "manufacturer" include an importer of lubricating oils, since section 4091 does not impose a tax on lubricating oils sold by the importer thereof. However, lubricating oils imported into the United States are subject to a tax under section 4521(3). The tax imposed by section 4521(3) is administered by the Bureau of Customs of the Treasury Department.

§ 48.4091–3 Sales of cutting oil.

(a) *Sales to users*—(1) *In general.* In any case where the manufacturer of lubricating oil sells such oil direct to a purchaser for use by him in cutting and machining operations on metals (as provided in section 4092(b) and § 48.4092–1), the manufacturer may consider such sale as a sale of cutting oil and may report and pay tax in respect of such sale at the rate of 3 cents a gallon, rather than 6 cents a gallon. Except as otherwise provided in paragraphs (c) and (d) of this section, the manufacturer, in order to establish the right to sell such oil subject to tax at the rate of 3 cents a gallon, must obtain from the purchaser and retain in his possession a properly executed cutting oil certificate.

(2) *Cutting oil certificate*—(i) *Form of certificate.* The following form of certificate will be acceptable for purposes of this paragraph and must be adhered to in substance:

CUTTING OIL CERTIFICATE

(For use by purchaser of lubricating oil, subject to tax under section 4091 of the Internal Revenue Code of 1954, for use by him in cutting and machining operations on metals)

_____, 19____
(Date)

The undersigned certifies that he himself, or the _____
_____
(Name of purchaser if other than undersigned)

of which he is _____, is in the
(Title)

business of _____,
(State business and article or articles manufactured)

and that the oil covered by the accompanying order or contract is purchased for the following use as a lubricant in cutting and machining operations on metals:

_____
_____
_____

The purchaser understands that he must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon his use of the oil for a lubricating purpose other than in cutting and machining operations on metals, or upon his sale or other disposition of the oil, he is required to notify the manufacturer.

The undersigned understands that he and all guilty parties will, for fraudulent use of this certificate for the purpose of purchasing oil subject to tax at the rate of 3 cents a gallon, rather than 6 cents a gallon, be subject to a fine of not more than $10,000, or

imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(ii) *Period covered.* Where only occasional sales of cutting oil are made to a purchaser, a separate cutting oil certificate shall be furnished for each order. However, where sales of cutting oil are regularly or frequently made to a purchaser, a certificate covering all orders for a specified period not to exceed 4 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to cutting oil sales must be kept for inspection by the district director as provided in section 6001.

(iii) *Certificate not obtained prior to filing of manufacturer's excise tax return.* If a cutting oil certificate in respect of any sale to which this paragraph has application is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include in his return for that period tax at the rate of 6 cents a gallon in respect of such sale. However, if the certificate is later obtained, a claim for refund may be filed, or a credit may be claimed, in respect of tax paid in excess of 3 cents a gallon, as provided in section 6416(b)(2)(O) and the regulations thereunder contained in Subpart O of this part.

(iv) *Duty of manufacturer to ascertain validity of certificate.* A manufacturer making a sale under a cutting oil certificate must use reasonable diligence to satisfy himself that the use of the certificate is warranted under this paragraph. If the manufacturer has knowledge at the time of his sale that the oil is not intended for use as specified in the certificate, the manufacturer is liable for tax on the sale at the rate of 6 cents, rather than 3 cents, a gallon.

(b) *Sales for resale.* Except to the extent otherwise provided in paragraphs (c) and (d) of this section, the sale by the manufacturer of lubricating oil to a purchaser for resale for use in cutting and machining operations on metals shall not be considered a sale of cutting oils, even though it is known at the time of such sale that the oil will be resold for such use, and tax at the rate of 6 cents a gallon attaches to such sale. However, see section 6416(b)(2)(O) and the regulations thereunder contained in Subpart O of this part for provisions relating to refund or credit of an amount computed at the rate of 3 cents a gallon in the case of lubricating oil with respect to which tax was paid at the rate of 6 cents a gallon and which was used or sold for use as cutting oil.

(c) *Containers of 1 gallon or less.* In any case where a manufacturer of lubricating oil packages such oil in containers of 1 gallon or less furnished by him and labeled by him to indicate use of the oil only in cutting and machining operations on metals; any advertising of such oil so packaged and labeled indicates that the oil is for use only in cutting and machining operations on metals; and the oil so packaged and labeled is sold by the manufacturer to a purchaser for such use by him or for resale by him for such use, the manufacturer may report and pay tax in respect of such sale at the rate of 3 cents a gallon, rather than 6 cents a gallon. The requirement of a cutting oil certificate is waived in respect of sales to which this paragraph has application. For provisions relating to refund or credit of the excess over 3 cents a gallon of tax paid in respect of lubricating oil which is sold by the manufacturer in bulk or in packages of more than 1 gallon for resale by a purchaser who packages or repackages the oil in containers of 1 gallon or less, furnished by him and labeled by him to indicate specific use of the oil only in cutting and machining operations on metals, see section 6416(b)(2)(O) and the regulations thereunder contained in Subpart O of this part.

(d) *Oil unsuitable for lubricating use except in cutting and machining operations on metals.* If the Commissioner determines that an oil is suitable for use as a lubricant only in cutting and machining operations on metals, the sale by the manufacturer of such oil direct to a purchaser for use by him or for resale by him is considered to be a sale of cutting oils, and tax at the rate of 3 cents, rather than 6 cents, a gallon attaches to such sale, unless the manufacturer has definite knowledge, prior to or at the time of the sale, that the oil is not being purchased for such use or for resale for such use. The requirement of a cutting oil certificate is waived in respect of sales to which this paragraph has application. Whether the oil is sold in bulk or otherwise is immaterial for purposes of this paragraph. However, the Commissioner may require that the oil be specifically represented to the purchaser, whether by labeling or otherwise, as being suitable for use only in cutting and machining operations on metals.

(e) *Oil sold as cutting oil but not so used.* If the manufacturer receives information establishing that oil sold to a purchaser, subject to tax at the rate of 3 cents a gallon, for use in cutting and machining operations on metals has not been and will not be so used by him, or that oil sold to a purchaser, subject to tax at the rate of 3 cents a gallon, for resale for use in cutting and machining operations on metals has been resold for use otherwise, or has not been and will not be used by the ultimate purchaser in cutting and machining operations on metals, additional tax at the rate of 3 cents a gallon with respect to the sale by the manufacturer shall be included in the manufacturer's return for the return period in which the information is received.

§ 48.4091–4 Sales of oil for nonlubricating use.

(a) *Sales to users*—(1) *In general.* The tax imposed by section 4091 does not attach to the sale by the manufacturer of lubricating oil direct to a purchaser for nonlubricating use by him, if such oil is actually so used by such purchaser. Except as otherwise provided in paragraphs (c) and (d) of this section, the manufacturer, in order to establish the right to sell lubricating oil tax free under this paragraph, must obtain from the purchaser and retain in his possession a properly executed certificate of nonlubricating use.

(2) *Certificate of nonlubricating use*—(i) *Form of certificate.* The following form of certificate will be acceptable for purposes of this paragraph and must be adhered to in substance:

CERTIFICATE OF NONLUBRICATING USE

(For use by purchaser of lubricating oil, subject to tax under section 4091 of the Internal Revenue Code of 1954, for use by him for nonlubricating purposes)

---, 19--
(Date)

The undersigned certifies that he himself, or the ---
(Name of purchaser if other than undersigned)

of which he is ---, is in the
(Title)

business of ---,
(State business and article or articles manufactured)

and that the oil covered by the accompanying order or contract is purchased for the following nonlubricating purposes:---

---

The purchaser understands that he must be prepared to establish by satisfactory evidence the actual use or disposition made of such oil, and that upon his use of the oil for a lubricating purpose, or upon his sale or other disposition of the oil, he is required to notify the manufacturer.

The undersigned understands that he and all guilty parties will, for fraudulent use of this certificate for the purpose of purchasing oil tax free, be subject to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

(Signature)

(Address)

(ii) *Period covered.* Where only occasional sales of oil for nonlubricating use are made to a purchaser, a separate certificate of nonlubricating use shall be furnished for each order. However, where sales of lubricating oil are regularly or frequently made to a purchaser for nonlubricating use, a certificate covering all orders for a specified period not to exceed 4 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to sales of lubricating oil for nonlubricating use must be kept for inspection by the district director as provided in section 6001.

(iii) *Certificate not obtained prior to filing of manufacturer's excise tax return.* If a certificate of nonlubricating use in respect of any sale to which this paragraph has application is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in his return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on such sale may be filed, or a credit may be claimed, as provided in section 6416(b)(2)(N) and the regulations thereunder contained in Subpart O of this part.

(iv) *Duty of manufacturer to ascertain validity of certificate.* A manufacturer making a sale under a certificate of nonlubricating use must use reasonable diligence to satisfy himself that the use of the certificate is warranted under this paragraph. If the manufacturer has knowledge at the time of his sale that the oil is not intended for nonlubricating use, the manufacturer is liable for tax on the sale.

(b) *Sales for resale.* Except to the extent otherwise provided in paragraphs (c) and (d) of this section, the sale by the manufacturer of lubricating oil to a purchaser for resale for nonlubricating use shall not be considered a sale for nonlubricating use, even though it is known at the time of such sale that the oil will be resold for such use. Accordingly, such sales for resale may not be made tax free under this section. However, see section 6416(b)(2)(N) and the regulations thereunder contained in Subpart O of this part for provisions relating to refund or credit of tax paid on the sale of oil which is resold for nonlubricating use.

(c) *Containers of 1 gallon or less.* In any case where a manufacturer of lubricating oil packages such oil in containers of 1 gallon or less furnished by him and labeled by him to indicate use of the oil for nonlubricating purposes only; any advertising of such oil so packaged and labeled indicates that the oil is for nonlubricating use only; and the oil so packaged and labeled is sold by the manufacturer to a purchaser for such use by him or for resale by him for such use, such sale may be made tax free. The requirement of a certificate of nonlubricating use is waived in respect of sales to which this paragraph has application. For provisions relating to refund or credit of tax paid in respect of lubricating oil which is sold by the manufacturer in bulk or in packages of more than 1 gallon for resale by a purchaser who packages or repackages the oil in containers of 1 gallon or less, furnished by him and labeled by him to indicate specific use of the oil for nonlubricating purposes only, see section 6416(b)(2)(N) and the regulations thereunder contained in Subpart O of this part.

(d) *Oil seldom used as a lubricant.* If the Commissioner determines that an oil suitable for use as a lubricant is seldom so used, but is used almost exclusively for nonlubricating purposes, the sale by the manufacturer of such oil direct to a purchaser for nonlubricating use by him or for resale by him for nonlubricating use may be made tax free. The requirement of a certificate of nonlubricating use is waived in respect of sales to which this paragraph has application.

(e) *Oil sold for nonlubricating use but not so used.* If the manufacturer receives information establishing that oil sold tax free, pursuant to the provisions of this section, to a purchaser for use by him has not been and will not be used by him for nonlubricating purposes, or that oil sold tax free, pursuant to the provisions of this section, to a purchaser for resale by him has been resold for lubricating purposes or has not been and will not be used by the ultimate purchaser for nonlubricating purposes, the tax applicable to the sale by the manufacturer shall be included in the manufacturer's return for the return period in which such information is received.

§ 48.4091–5 Other tax-free sales.

For provisions relating to tax-free sales of lubricating oils (including cutting oils), see:

(a) Section 4093, relating to exemption of sales to producers;

(b) Section 4221, relating to certain tax-free sales;

(c) Section 4222, relating to registration; and

(d) Section 4223, relating to special rules with respect to sales for further manufacture, and the regulations thereunder.

§ 48.4092 Statutory provisions; definitions; certain vendees considered as manufacturers; cutting oils.

SEC. 4092. *Definitions*—(a) *Certain vendees considered as manufacturers.* For purposes of this subpart, a vendee who has purchased lubricating oils free of tax under section 4093 shall be considered the manufacturer or producer of such lubricating oils.

(b) *Cutting oils.* For purposes of this subpart, the term "cutting oils" means oils sold for use in cutting and machining operation (including forging, drawing, rolling, shearing, punching, and stamping) on metals.

[Sec. 4092 as amended and in effect Jan. 1, 1959]

§ 48.4092–1 Definitions.

(a) *Certain vendees considered as manufacturers.* Any person who purchases lubricating oil free of tax under section 4093 (see § 48.4093–1) is considered to be the manufacturer of the lubricating oil so purchased.

(b) *Definition of cutting oils.* The term "cutting oils" includes all lubricating oils which are sold for use in cutting and machining operations on metals. The term does not include any oils which are sold for use in cutting and machining operations on plastics or any other substance which is not a metal. The term "cutting and machining operations" includes, but is not limited to, forging, drawing, rolling, shearing, punching, and stamping.

§ 48.4093 Statutory provisions; exemption of sales to producers.

SEC. 4093. *Exemption of sales to producers.* Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed under this subpart upon lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him.

[Sec. 4093 as originally enacted and in effect Jan. 1, 1959]

§ 48.4093–1 Tax-free sales to manufacturers for resale.

(a) *In general.* No tax attaches to the sale of lubricating oil by the manufacturer direct to another manufacturer of lubricating oil for resale by him, provided that:

(1) Both the purchasing manufacturer and the selling manufacturer are bonded and registered as manufacturers of lubricating oil in accordance with the provisions of § 48.4101–1, and

(2) The purchasing manufacturer notifies the selling manufacturer in writing that:

(i) The lubricating oil to be purchased by him in the period beginning _____, and ending _____, such period not to exceed 4 calendar quarters, is for resale by him, unless otherwise indicated,

(ii) He has given a bond, which has been approved, and which is on file with the District Director at _____, and

(iii) He is registered with such District Director under Certificate of Registry No. _____.

It is immaterial for purposes of this section whether the lubricating oil is to be resold for general lubricating use, for lubricating use in cutting and machining operations on metals, or for nonlubricating use. See § 48.4092–1 for liability of purchasing manufacturer.

(b) *Selling manufacturer not notified prior to filing of excise tax return.* If the written information required under paragraph (a)(2) of this section is not furnished to the selling manufacturer prior to the time such manufacturer files a return covering taxes due for the period during which the sale was made, such manufacturer must include the tax on the sale in his return for that period. However, if the information is later obtained, a claim for refund of the tax paid on such sale may be filed, or a credit may be claimed, upon compliance with the provisions of section 6416(a) and the regulations thereunder contained in Subpart O of this part.

(c) *Duty of selling manufacturer to ascertain validity of tax-free sale.* The selling manufacturer must use reasonable diligence to satisfy himself that a tax-free sale is warranted under section 4093. If the selling manufacturer has knowledge at the time of his sale that the lubricating oil sold by him is not intended for resale as indicated by the purchaser, or that the purchaser is not a bonded and registered manufacturer of lubricating oil, the selling manufacturer is not relieved under the provisions of section 4093 of liability for the tax. See section 4221(c) and the regulations thereunder contained in Subpart N of this part for provisions under which the selling manufacturer is relieved of liability for the tax in respect of oil sold tax free under section 4093 where he accepts in good faith the evidence required of the purchasing manufacturer in support of the tax-free sale. For provisions under which the purchasing manufacturer is considered to be the manufacturer of lubricating oil purchased tax free for resale by him, see § 48.4092–1.

SPECIAL PROVISIONS APPLICABLE TO PETROLEUM PRODUCTS

§ 48.4101 Statutory provisions; registration and bond.

SEC. 4101. *Registration and bond.* Every person subject to tax under section 4081 or section 4091 shall, before incurring any liability for tax under such sections, register with the Secretary or his delegate and shall give a bond, to be approved by the Secretary or his delegate, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the United

States of any tax under such sections; that he shall render truly and completely all returns, statements, and inventories required by law or regulations in pursuance thereof and shall pay all taxes due under such sections; and that he shall comply with all requirements of law and regulations in pursuance thereof with respect to tax under such sections. Such bond shall be in such sum as the Secretary or his delegate may require in accordance with regulations prescribed by him, but not less than $2,000. The Secretary or his delegate may from time to time require a new or additional bond in accordance with this section.

[Sec. 4101 as originally enacted and in effect Jan. 1, 1959]

§ 48.4101–1 Registration and bonding.

(a) *Requirement*—(1) *In general.* Except to the extent otherwise provided in subparagraph (2) of this paragraph, every producer or importer of gasoline (see section 4082 and the regulations thereunder) and every manufacturer of lubricating oil (see § 48.4091–2(b)) must, before incurring any liability for tax with respect to such articles under section 4081 or 4091, as the case may be, make application for registry in accordance with the provisions of paragraph (b) of this section, and shall give a bond in accordance with the provisions of paragraph (c) of this section. Upon approval of the application and acceptance of the bond, the applicant will be furnished a Certificate of Registry bearing his registration number. Such certificate may not be transferred from one person to another. For the civil penalty imposed for failure to register, see section 7272. For provisions relating to the criminal penalties imposed for failure to register or give bond as required by section 4101, for false representation as a person so registered and bonded, or for willfully making any false statement in an application for registry under such section, see section 7232.

(2) *Exceptions*—(i) *Certain purchasers of gasoline.* Any person who qualifies under section 4082 and the regulations thereunder as a producer of gasoline merely by reason of his having purchased gasoline tax free under the provisions of section 4221, is not required to register and give bond under the provisions of this section, unless the district director finds that such person is liable for tax under section 4081 by reason of his having abused the privilege of purchasing gasoline tax free. However, see section 4222 and the regulations thereunder for provisions under which registration of purchasers is required, with certain exceptions, as a condition to the tax-free sales authorized under section 4221.

(ii) *Prior registrations or applications.* In any case in which a producer or importer of gasoline, or a manufacturer of lubricating oil, has made application for registry under corresponding provisions of prior regulations, or holds a Certificate of Registry in effect under such prior regulations, such person is not required to make application for registry under this section, unless the district director furnishes him with written notification that such application is required. In such event, the application for registry shall be made at the time, in the form, and in the manner prescribed in such written notification.

(b) *Application for registry.* The application for registry required under paragraph (a) of this section shall be prepared in accordance with the form, instructions, and regulations applicable thereto. Such application shall include a statement as to whether the applicant is a refiner, compounder, blender, or actual producer of gasoline; whether he is an importer of gasoline; whether he is a dealer selling exclusively to producers of gasoline; whether he is a wholesale distributor of gasoline; and whether he is a manufacturer of lubricating oil. In addition, the application shall include a statement setting forth in detail:

(1) A description of the equipment and facilities, if any, maintained for the production of gasoline or lubricating oil, as the case may be,

(2) A description of the equipment and methods actually employed in such production,

(3) The ingredients or materials utilized,

(4) In the case of a refiner, compounder, blender, or actual producer of gasoline, the percentage which his sales, if any, of gasoline produced by him is expected to bear to his total sales of gasoline,

(5) In the case of a wholesale distributor of gasoline, a description of the storage facilities maintained by the distributor, and the percentage which his bulk sales of gasoline is expected to bear to his total sales of gasoline, and

(6) In the case of a manufacturer of lubricating oil, the percentage which his sales of lubricating oil produced by him is expected to bear to his total sales of lubricating oil.

The application for registry required under paragraph (a) of this section shall be signed by the individual, if the applicant is an individual; the president, vice president, or other principal officer, if the applicant is a corporation; a responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership or other unincorporated organization; or the fiduciary, if the applicant is a trust or estate. Such application shall be filed with the district director with whom the applicant will file returns of any tax for which he may incur liability under section 4081 or 4091. Form 637 is the form prescribed for making such application. Copies of such form may be obtained from any district director.

(c) *Bond*—(1) *In general.* The bond required under paragraph (a) of this section shall be executed in accordance with the form, instructions, and regulations applicable thereto. Such bond shall be conditioned that the principal shall not engage in any attempt, by himself or by collusion with others, to defraud the United States of any tax under section 4081 or 4091; that he shall render truly and completely all returns, statements, and inventories required by law or regulations in respect of such tax or taxes and shall pay all such taxes for which he is liable; and that he shall comply with all requirements of law and regulations with respect to such taxes. The amount of such bond shall be equivalent to the approximate amount of tax under section 4081 or 4091, as the case may be, for which the principal may be expected to incur liability during an average 3-month period, computed at the rate of tax in effect at the time the bond is given, except that:

(i) Where the approximate amount of tax so calculated is not an even multiple of $100, the amount of the bond shall be increased to the next higher multiple of $100. For example, if the approximate amount of tax liability to be incurred during the 3 months is calculated at $6,666.66, the amount of the bond shall be $6,700.

(ii) Where the approximate amount of tax so calculated would exceed $30,000, the district director may accept a bond in the amount of not less than $30,000, or may require a bond in a larger amount but not in excess of such approximate amount of tax. In such cases, the applicant for registry shall submit to the district director all facts pertaining to his assets and liabilities as will be of assistance to the district director in determining whether to require a bond in a larger amount.

(iii) In no case shall the amount of the bond be less than $2,000.

The bond required under paragraph (a) of this section shall be submitted to the district director, in duplicate, with the application for registry required under paragraph (a) of this section and shall be signed, on behalf of the principal, by any person designated under paragraph (b) of this section as a proper person to sign the application for registry. Form 928 is the form prescribed for use in giving such bond. Copies of such form may be obtained from any district director.

(2) *Cancellation clause.* The bond required under paragraph (a) of this section may be accepted with a cancellation clause incorporated therein. Such cancellation clause shall provide that:

(i) Any surety on the bond may at any time give notice to the principal and the district director that he desires to be relieved of liability under said bond after a date named, which shall be at least 60 days after the receipt of notice by the district director.

(ii) If the notice is not withdrawn in writing prior to the date named in the notice, the rights of the principal as supported by said bond shall be terminated on such date (unless supported by another bond or bonds), and the surety shall be relieved from liability under said bond for any acts done wholly subsequent to said date. The surety shall, however, remain liable for any unpaid tax liability incurred by the principal before cancellation, in addition to penalties and interest, unless the principal pays such tax and penalties and interest.

(iii) Said notice may not be given by an agent of the surety, unless it is accompanied by power of attorney duly executed by the surety authorizing the agent to give such notice or by a verified statement that such power of attorney is on file with the Treasury Department.

(3) *Changes in bond.* After filing of the bond required under paragraph (a) of this section, no change may be made

in the terms thereof except with the consent of the surety or sureties and subject to the approval of the district director. Any such change and the consent thereto of the surety or sureties shall be shown on Form 929, copies of which may be obtained from any district director. Such form shall be executed and filed, in any case where a change is proposed in the terms of the bond, in the same manner as that prescribed with respect to the bond itself and shall be accompanied by information showing the registration number of the principal.

(4) *New or additional bond.* The district director may require a new or additional bond under this section in any case where he deems it necessary or desirable in order to protect the interests of the United States.

(5) *Other provisions relating to bonds.* For general provisions relating to bonds, including such matters as the surety or sureties required, see section 7101 and the regulations thereunder.

§ 48.4102 Statutory provisions; inspection of records, returns, etc., by local officers.

SEC. 4102. *Inspection of records, returns, etc., by local officers.* Under regulations prescribed by the Secretary or his delegate, records required to be kept with respect to taxes under this part, and returns, reports, and statements with respect to such taxes filed with the Secretary or his delegate, shall be open to inspection by such officers of any State or Territory or political subdivision thereof or the District of Columbia as shall be charged with the enforcement or collection of any tax on gasoline or lubricating oils. The Secretary or his delegate shall furnish to any of such officers, upon written request, certified copies of any such statements, reports, or returns filed in his office, upon the payment of a fee of $1 for each 100 words or fraction thereof in the copy or copies requested.

[Sec. 4102 as originally enacted and in effect Jan. 1, 1939]

§ 43.4102–1 Inspection of records, returns, reports, and statements by State or local tax officers.

(a) *Inspection of records maintained by taxpayer.* The records which a producer of gasoline or a manufacturer of lubricating oil is required to keep, pursuant to section 6001 and the regulations thereunder, shall be open to inspection by any officer of any State or Territory, or political subdivision thereof, or of the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil.

(b) *Inspection of records maintained by Internal Revenue Service*—(1) *In general.* The records maintained by the Internal Revenue Service with respect to the taxes imposed by sections 4081 and 4091 on the sale or use of gasoline or lubricating oil, respectively, including all returns, reports, and statements with respect to such taxes, shall, upon the request of any officer of a State or Territory, or political subdivision thereof, or of the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil imposed by the State, Territory, political subdivision, or District of Columbia, be open to inspection by such officer, for purposes of such collection or enforcement.

(2) *Requests for inspection.* Requests for inspection under this paragraph shall be made in writing, signed by any officer of a State or Territory, or political subdivision thereof, or the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil imposed by such State, Territory, political subdivision, or the District of Columbia, and shall be addressed to the district director having custody of the records which it is desired to inspect. Each such request shall state (i) the kind of records (whether pertaining to gasoline or lubricating oil) it is desired to inspect, (ii) the period or periods covered by the returns involved, (iii) the name of the officer by whom the inspection is to be made, (iv) the name of the representative of such officer who has been designated to make the inspection, (v) by specific reference, the law of the State or Territory, or political subdivision thereof, or the District of Columbia, imposing the tax which such officer is charged with collecting or enforcing, and the law under which such officer is so charged, and (vi) the purpose for which the inspection is to be made. The district director will notify the person making the request upon approval or disapproval of such request.

(3) *Time and place for inspection.* In any case where a request for inspection under this paragraph is approved, such inspection shall be made in the office of the district director having custody of the records which it is desired to inspect, but only in the presence of an internal revenue officer or employee and during the regular hours of business of such office.

(c) *Copies of returns, reports, and statements.* Upon the request of any officer of a State or Territory, or political subdivision thereof, or of the District of Columbia, who is charged with the enforcement or collection of any tax on gasoline or lubricating oil imposed by the State, Territory, political subdivision, or the District of Columbia, a certified copy of any return, report, or statement filed with the Internal Revenue Service with respect to the taxes imposed by sections 4081 and 4091 on the sale or use of gasoline and lubricating oil, respectively, shall be furnished to such officer upon payment of a fee of $1 for each 100 words or fraction thereof. Requests for such copy shall be made in writing, signed by such officer and shall be addressed to the district director having custody of the return, report, or statement of which a certified copy is desired. Each such request shall (1) adequately identify the return, report, or statement of which a certified copy is desired, (2) by specific reference, identify the law of the State or Territory, or political subdivision thereof, or the District of Columbia, imposing the tax which such officer is charged with collecting or enforcing, and the law under which such officer is so charged, and (3) state the purpose for which such copy is to be used.

[F.R. Doc. 59-9056; Filed, Oct. 27, 1959; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 902]

[Docket No. AO-293-A1]

MILK IN WASHINGTON, D.C., MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Arlington, Virginia, on September 23, 1959, pursuant to notice thereof issued on September 16, 1959 (24 F.R. 7585).

The material issues on the record of the hearing related to:

1. Modifying the requirements that a plant must meet to qualify as a pool plant.

2. The need for emergency action justifying omission of the recommended decision.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The means whereby certain types of plants may qualify as pool plants should be revised to give consideration to marketing practices and conditions in the Washington, D.C., marketing area.

It was proposed that a plant be a pool plant if (1) it receives its entire supply of milk from a cooperative association of which 70 percent or more of the members are producers delivering milk to other pool plants, and (2) the plant ships any products defined as Class I milk to other pool plants. This proposal was made for the purpose of qualifying as a pool plant, a handler's plant at Frederick, Maryland, which receives its entire supply of milk from members of the Maryland and Virginia Milk Producers Association. The milk of such dairy farmers is separated at the Frederick plant and the major portion of the cream is shipped to a pool distributing plant in the marketing area which is operated by the same handler. The skim milk and the remainder of the cream is processed into creamed cottage cheese at the Frederick plant. The fluid cream needs of the distributing plant are for the most part met by the shipments from the Frederick plant.

As now provided in the order, a supply-type plant may qualify as a pool plant if milk, cream or skim milk equal to at least 50 percent of the quantity of milk received from Grade A dairy farmers is shipped to pool distributing plants during any month of the period of October through February, and during any other month of the year if 40 percent is so shipped, provided the distributing plants receiving the shipments have route distribution of Class I milk

equal to at least 50 percent of receipts of approved milk from dairy farmers and approved plants, and distribute 10 percent of such receipts on routes in the marketing area. A supply plant that is a pool plant during all of the months of October through February is automatically a pool plant for the following months of March through September, unless the operator requests nonpool status.

It is further provided in the order that a manufacturing plant is a pool plant if it is operated by a cooperative association of which 70 percent or more of the members are producers whose milk is regularly received at other pool plants.

The quantities of cream shipped from the Frederick plant to the handler's distributing plant have not met the percentage requirements in the order as described above for supply plants, and consequently the plant has not qualified as a pool plant. The dairy farmers whose milk is received at this plant, however, have been producers since the order became fully effective July 1, 1959, by virtue of diversion from the handler's distributing pool plant. The order provides that during any of the months of March through September a producer's milk may be diverted any day of the month to a nonpool plant. The provision for unlimited diversion was continued through October 1959, by suspension of the provisions which would otherwise limit diversion of a producer's milk to nonpool plants to not more than 8 days in the month (4 days in the case of every-other-day delivery). This suspension was effected by an order issued September 28, 1959 (24 F.R. 7853). The effect of the provisions limiting diversion, in the absence of further modification, will resume in November and continue in subsequent months through February.

The proposal of the handler operating the plant at Frederick would permit him to continue his practice of using this plant to supply his fluid cream requirements and at the same time maintain the producer status of the dairy farmers who are the regular source of supply for the plant. It would result in accounting under the order for such shipments of milk products as transfers from a pool plant within the classification and allocation procedure now in the order.

Milk of producers now being received at this plant is serving to supply some of the Class I milk requirements of the handler. At the same time, for purposes of determining the pool status of the cooperative manufacturing plant, this milk is included in the computation as part of the reserve supply delivered to a nonpool plant. Under the order provision for pooling the manufacturing plant of a cooperative association, the association may have 30 percent of its members delivering to nonpool plants or its own manufacturing plant.

The desirability of giving pool status to the plant at Frederick rests upon the circumstances that it is being used to supply the handler's Class I requirements for fluid cream, that the milk supply is already part of the reserve supply for which a cooperative association is responsible as part of its function in assuring an adequate supply and balancing supplies within the market, and that pool status will permit a flexibility of handling operations in the interest of the most efficient arrangement. On this basis it is appropriate that the plant at Frederick, and any other plant under similar conditions, be accorded pool status substantially in the manner as has been proposed.

Although the handler proposed that the entire supply of the plant would be from the kind of cooperative association specified in § 902.9(b), it was brought out that the plant has used some nonfat dry milk to fortify culture for cottage cheese starter. It is concluded that this type of receipts should not interfere with qualifying the plant. The order provision should specify that all the milk received from dairy farmers at the plant be from farmers who are members of a cooperative association of which 70 percent of the members are producers whose milk is received at pool plants which have qualified on the basis of route distribution or shipments to distributing plants in the manner described in § 902.9(a). This would serve to maintain the principle that the supply is associated with the market needs either through actual use for Class I disposition or as a related reserve supply. In this connection, it is concluded that the order provision should also contain the requirement, as specified similarly in the handler's proposal, that the pool status of the plant should depend also on shipment of some Class I milk products to pool plants which distribute milk in the marketing area.

The order provision (§ 902.9(b)) under which a manufacturing plant operated by a cooperative association qualifies as a pool plant should be clarified. It should be stated that the other pool plants at which milk of 70 percent of the members of such cooperative association is received are pool plants qualified pursuant to § 902.9(a). It would be inappropriate for the manufacturing plant of a cooperative association to attain pool status partly on the basis of deliveries of member milk to the plant of a second cooperative association which is a pool plant pursuant to § 902.9(b), or to a plant qualified on the basis recommended herein for the Frederick plant, since in either case the plants receiving the milk would not be required to meet any specified standards as set forth in § 902.9(a).

2. The due and timely execution of the function of the Secretary under the Act imperatively and unavoidably requires the omission of a recommended decision by the Deputy Administrator, Agricultural Marketing Service, and the opportunity for exceptions thereto, on the above issue.

The conditions complained of are such that it is urgent that remedial action be taken as soon as possible. It is therefore found that good cause exists for omission of the recommended decision in order to inform interested parties of the conclusions reached. Uncertainty on the part of interested parties might lead to instability in the market. Knowledge of the action decided upon by the Secretary will permit those affected to adjust their operations promptly in accordance with such decision.

Delay beyond November 1, 1959, will defeat the purpose of the amendment. Accordingly, the time necessarily involved in the preparation, filing, and publication of a recommended decision, and exceptions thereof, would make such relief substantially ineffective and therefore should be eliminated in this instance. The notice of hearing stated that consideration would be given to the question of whether economic and marketing conditions require emergency action with respect to any or all amendments deemed necessary as a result of the hearing. Action under the procedure described above was requested by proponents at the hearing.

Proposed findings and conclusions. No briefs or proposed findings and conclusions were filed on behalf of interested parties in the market within the time allowed therefor.

General findings. (a) The tentative marketing agreement and the order as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the prices of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Washington, D.C., Marketing Area" and "Order Amending the Order, Regulating the Handling of Milk in the Washington, D.C., Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of August 1959 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order

amending the order, regulating the handling of milk in the Washington, D.C., marketing area, is approved or favored by producers, as defined under the terms of the order, as hereby proposed to be amended, and who during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D.C., this 23d day of October 1959.

CLARENCE L. MILLER,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Washington, D.C., Marketing Area

§ 902.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Washington, D.C., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Washington, D.C., marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended:

1. Delete § 902.9(b) and substitute the following:

(b) Any manufacturing plant which is operated by a cooperative association 70 percent or more of whose members are qualified producers whose milk is regularly received during the month at other plants which are pool plants pursuant to paragraph (a) of this section;

2. Add a new § 902.9(c) to read as follows:

(c) Any plant from which any Class I product (as defined in § 902.41(a)) is shipped to plants which are pool plants pursuant to paragraph (a)(1) of this section if such plant receives milk from dairy farmers all of whom are members of a cooperative association of which 70 percent or more of the members are qualified producers whose milk is regularly received during the month at other plants which are pool plants pursuant to paragraph (a) of this section.

[F.R. Doc. 59-9097; Filed, Oct. 27, 1959; 8:47 a.m.]

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

[7 CFR Part 959]

IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Expenses and Rate of Assessment

Notice is hereby given that the Secretary of Agriculture is considering the approval of the expenses and rate of assessment hereinafter set forth, which were recommended by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and Order No. 59, as amended (7 CFR Part 959), regulating the handling of Irish potatoes grown in Modoc and Siskiyou Counties in California and in all counties in Oregon except Malheur County, issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Consideration will be given to any data, views, or arguments pertaining thereto, which are filed with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C., not later than 15 days following publication of this notice in the FEDERAL REGISTER.

The proposals are as follows:

§ 959.212 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred by the Oregon-California Potato Committee, established pursuant to Marketing Agreement No. 114, as amended, and this part, to enable such committee to perform its functions pursuant to the provisions of aforesaid amended marketing agreement and order, during the fiscal period beginning July 1, 1959, and ending June 30, 1960, will amount to $20,275.00.

(b) The rate of assessment to be paid by each handler, pursuant to Marketing Agreement No. 114, as amended, and this part, shall be three-eighths cent ($0.00375) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal period.

(c) The terms used in this section shall have the same meaning as when used in said marketing agreement, as amended, and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 22, 1959.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 59-9098; Filed, Oct. 27, 1959; 8:47 a.m.]

DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202]

MINIMUM WAGE DETERMINATIONS

Tentative Decision in Determination of Prevailing Minimum Wages for Tires and Related Products Industry

A record of proceedings held under sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 and 45(a)) to determine the prevailing minimum wages for persons employed in the tires and related products industry has been certified by the hearing examiner. A tentative decision, including a statement of findings and conclusions, as well as the reasons and basis therefor, on all material issues of fact, law, and discretion presented on the record, and any proposed wage determination is now appropriate under the rules of practice, 41 CFR 203.21(b), and the Administrative Procedure Act (5 U.S.C. 1007(b)).

Definition. The notice of hearing defined the tires and related products industry as that industry which manufactures or furnishes tires and related products, including pneumatic casings, inner tubes, industrial and highway solid tires of 2 inches or more in cross section, and camelback.

Six tire companies object to the definition, because it does not include all rubber products in general, and, more particularly, because it does not include all tire repair materials. Since the evidence does not establish what minimum wages prevail in plants specializing in the manufacture of these other goods, they take the position no determination can be made on this record. In support of their position these manufacturers point to the fact that some establishments specializing in products included in the definition also manufacture other rubber goods, including tire repair materials not within the definition. Some restrict their production to the tires and related products defined in the notice. Others restrict their production to the excluded goods. The vice is said to lie in the fact that higher wages prevail in the manufacture of the included products.

The United Rubber, Cork, Linoleum and Plastic Workers of America, an international union affiliated with the American Federation of Labor and Congress of Industrial Organizations, recommends adoption of the definition proposed in the notice of hearing.

Substantial flexibility as to industrial scope is authorized by the statutory provision for determination of "the prevailing minimum wages for persons employed on similar work or in the particular or similar industries or groups of industries" (subsection 1(b)). This provision has been held to authorize a determination applicable only to a branch of the woolen and worsted industry, as opposed to the contention that it does not authorize one applicable to less than the whole industry. Allendale v. Mitchell, 12 WH Cases 760 (D.C. D.C.), certiorari denied 351 U.S. 909. The fact that administrative industrial classification may result in a legal minimum wage applicable to part, but not all, of the work of particular plants or employees was held to be fully consistent with validity when this problem arose under the Fair Labor Standards Act. Southern Garment Mfgrs. Assn., Inc. v. Fleming, 122 F. (2d) 622 (C.A.D.C.).

The volume and range of secondary products which different plants will make depends upon such factors as the initiative, imagination, opportunity, and judgment of management. In consequence, overlap presents a problem, wherever the lines are drawn in any system of industrial classification. It appears from the 1954 Census of Manufactures that the plants specializing in the manufacture of tires and tubes produce 99 percent of the total value of all tires and tubes. Their secondary products account for only 12 percent of their total production. This measure of major product specialization and coverage shows the industry considered in the 1954 Census to be relatively free of overlap, as compared with manufacturing industries generally.

Camelback and repair and retreading materials were reclassified in the 1957 edition of the Standard Industrial Classification Manual by moving them from the Rubber Products, not elsewhere Classified, Industry to the Tires and Tubes Industry. The objecting manufacturers protest the failure to include repair materials along with camelback in the proposed definition. They estimate that only about 13 companies are added to the industry surveyed because they make camelback exclusively, but that almost 100 are omitted from the wage survey by the omission of tire repair materials. The omitted plants, they say, characteristically pay wages which are lower than those in plants manufacturing tires and tubes, and the inclusion of such plants would result in a lower wage, under a technique for determination which gives some significance to the number of plants paying higher and lower minimum wages in identifying the minimum wage which is found to prevail.

In view of the fact that all of the plants primarily engaged in the manufacture of tires, tubes, or camelback, or any combination of those products, total only 65, it cannot be doubted that the minimum wage to be determined would be affected by the addition of approximately 100 plants with radically different wage structures which would have to be included by the proposed expansion of the definition to include miscellaneous repair materials. But it is the proposed amendment, rather than the proposed definition, which would merit the charge of gerrymandering to bias the wage survey, which these manufacturers assert. The annual Government purchases of tires, tubes, and camelback under contracts subject to the act are quite substantial, totaling nearly sixty million dollars, whereas such purchases of the omitted miscellaneous repair material are insignificant by comparison—less than one-tenth of one percent. The result is substantially the same when measured by commercial standards. Under the proposed amendment, the additional plants, which are so numerous as to dominate the plant minimum wage count, make shipments of less than 1.4 percent of the value of the total shipments of the industry as proposed to be redefined. I am persuaded by these facts of record that if consideration of repair materials is appropriate in this context, it should be separate from the manufacture of tires, tubes and camelback. In view of the insignificant Government purchases of repair materials, however, such separate consideration is not warranted. The definition of the industry proposed in the notice of hearing is adopted for the purpose of this tentative decision.

Need for a determination. These six companies also argue that no determination should be made here, because the purpose of the act does not call for its application to a high wage industry, such as theirs, is inflationary, and would be inimical to small business.

These objections misconstrue the purpose, terms, and effect of the Act. Nothing in its terms or legislative history evinces an intent to exempt whole industries based on the average hourly wages paid in any of them. This very contention was rejected by the Courts on judicial review of the determination of prevailing minimum wages in the bituminous coal industry. Ruth Elkhorn Coals v. Mitchell, 248 F. 2d 635 (C.A.D.C.), certiorari denied 355 U.S. 953. The minimum wages reviewed were substantially higher than the highest recommendation of any of the parties here (41 CFR 202.51).

These companies further argue from the premise that the purpose of the Act is "to prevent the flow of Government business into the hands of firms that pay substandard wages," which do not characterize this industry. They overlook a standard of wages which the Act expressly provides below which wages are substandard—the "prevailing minimum" for the "particular" industry. Obviously an industry which has achieved a relatively high wage structure presents a very real opportunity to those of its members who would capture Government business from their competitors by basing their low bids on the savings effected by paying minimum wages which are lower than their competitors. The larger range for such advantage (and plant minimum wages range as low as $1.00 in this industry), makes it a far more potent power for the evil the Act is intended to remedy than would be possible in a less prosperous industry where the prevailing minimum wage is not far above the $1.00 per hour, which the Fair Labor Standards Act requires of even the least prosperous of the manufacturing and extractive industries.

The record provides some clear examples of why there should be a determination in this industry. One of the companies, which stands seventh in the list of largest Government contractors in this industry, conducts a multi-plant interregional operation with a minimum wage of $1.00 per hour. It concedes in its brief that the prevailing minimum for the geographic area where its minimum is paid is between $1.35 and $1.36, and for the industry as a whole is $1.53. Another, one of the largest manufacturers in the industry, which among other plants, operates the industry's second largest plant, located at the very center of manufacture in the industry's heaviest concentration area, identified that plant as having a reported minimum wage of $1.26, though its brief concedes that $1.65 is the prevailing minimum wage in that area.

Four of these six manufacturers who affirm in their brief that they operate 23 of the industry's 65 plants and employ "almost 80% of the industry," voice concern about the "catastrophic" effect of a wage determination on small business. It seems clear that these four companies, the largest in the industry and commonly referred to as the "big four", are not themselves "small business". They do not contend that the smaller companies and plants will be unlawfully or otherwise advantaged over them by the act of determination. Further, while these companies, as reason for foregoing determination, urge but do not show economic disadvantage to the smaller establishments constituting a minority of the total in the defined industry, they also urge me to expand the industry definition to add 100 even smaller establishments producing tire repair materials. None of these smaller, lower minimum wage establishments have protested their proposed exclusion.

The uncontroverted facts of record fail to support the contention of the largest companies which assumes that the smaller establishments in the defined industry pay its lowest minimum wages, and substantially below the prevailing standard of the industry. The opposite appears to be the case. This industry is characterized not by small establishments, but by units of substantial size, 1090 covered workers being the industry average per establishment (Table 1). If establishments employing up to 500 such workers in the defined industry are regarded as small businesses for purposes of Government procurement,[1] they are uniformly found throughout the entire

[1] See: Small Business Act of 1958 (15 U.S.C. 631 et seq.), and regulations thereunder (24 F.R. 3491, May 1, 1959).

range of the minimum wage frequency distribution tables and not exclusively in the lower segments. Further, of the nine establishments which reported payment of the highest minimum wages in the entire industry ($1.98 to $2.45), five were small businesses reporting 500 or less covered workers. One of them, employing only 9 covered workers, is the smallest, and another, employing 35 covered workers, pays the highest, single minimum wage in the industry (Table 5). By contrast, the second and third largest industry establishments (6,668 and 6,249 covered workers), respectively reported minimum wages of at least $1.14 and 83¢ per hour less than the very small establishment employing the 35 covered workers.

Recognition of the prevailing minimum wage in this industry as an existing economic fact, and the issuance of a determination expressing that recognition as required by the Act, is not inflationary, and merely states the minimum wage standard already in effect in this industry. The reasons which have been advanced for declining to make a determination here are not persuasive.

Applicability. By extensive cross-examination of officers of the General Services Administration during the hearing, counsel for these six manufacturers explored the possibility that the Act's limitation to "any contract * * * in any amount exceeding $10,000" might make it inapplicable to the bulk of the Government purchases in this industry, because they are made pursuant to yearly contracts fixing prices and specifications with many manufacturers which do not assure any one of the contracting corporations that any purchases will be made from it. None of these six manufacturers expressed this view through its officials or otherwise, however, and it is not among the points raised in their post-hearing brief. It must be assumed, therefore, that these parties have decided not to present this contention, and I do not consider it among the material issues of fact, law, or discretion presented on the record. On somewhat different footing, however, stands the protest of one of these six companies in a prepared statement given in the testimony of its secretary and treasurer:

> We note that nearly $52 million, or 86 percent of the $60 million in Government awards were purchased by the General Services Administration.
>
> We raise the question as to whether many such GSA purchases are subject to the Walsh-Healey Public Contracts Act in the light of the Administrator's decision No. PC–611, dated July 24, 1958? This decision explains the "stockpile rule," and we ask you to take judicial notice of it and consider its application to Government purchases of tire and rubber tubes from the Federal Supply Schedule.

Though this request for clarification of the applicability of any determination here is not repeated in the post-hearing brief, it is not withdrawn, and there should be no ambiguity on the point.

The "stockpile rule," to which reference is made, is merely an application of the principle that the Act does not apply retroactively to work performed prior to the award of the contract. It applies a "first in, first out" rule to stockpiles of fungible goods on hand at the time of award where evidence is not available as to whether goods subsequently processed and added to the stockpile are among those delivered to the Government. The cited decision depends upon special facts in that case which have no direct counterpart in these proceedings, and it has no demonstrable application to them. The stockpile rule is not likely to remove from the application of the Act any of the purchases in this industry made pursuant to the Federal Supply Schedule system of procurement presently followed by the General Services Administration.

Procedural objections. These six companies also object to a determination on this record by contending that the wage survey prepared specially for the hearing by the Bureau of Labor Statistics was improperly admitted in evidence. This contention is based on the fact that the Department refused to reveal the list of plants whose wages are tabulated in the survey and the list of plants questioned but omitted from it because their answers revealed them to be not within its scope. This is said to have deprived the objecting manufacturers of the right, granted by section 7(c) of the Administrative Procedure Act, "to conduct such cross-examination as may be required for a full and true disclosure of the facts."

The survey undertook to discover the wages paid in plants with a total of 10 or more employees whose major product is within the industry as defined. It found that 65 plants were within this scope, and presents anonymous tabulations of the wages paid in 64 of them, the remaining one having refused to divulge this information even under a pledge to keep its identity and association with such data in confidence. The six objecting manufacturers' claim to prejudice from the refusal to divulge the lists is based on their citation of statistics from other Government departments suggesting that two additional establishments "might fall within the proposed definition," and a few percentage points of divergence in statistical estimates by different departments at other times as to employments in the industry and its several plants, said to cause them to question whether the survey covers "the total universe and the total employment within the proposed definition." In view of the "major product" and "10 employee" limitations on the scope of the survey, as distinguished from the proposed definition (to which no objection is made), these speculations could be entirely true without in any way impairing the accuracy of the count of 65 establishments as being within the scope of the definition and the survey.

There is no suggestion that any of the 64 plants whose wages are analyzed in the survey are not properly included. Indeed, late in the hearing, these manufacturers manifested their affirmative agreement that at least 58 of them, employing all but 430 of the 69,762 employees whose wages are considered in the survey, were properly included. It developed that the six manufacturers presenting this objection had arranged for 58 plants to deliver a copy of their answers to the questionnaire directly to the expert witness the six had engaged. A table analyzing the responses of these 58 in a way not included in the Bureau's tables was offered by counsel for the 6 objecting manufacturers and received in evidence. He now advocates that any determination which is made be based on this table. None of these six companies have been able to suggest any plant which may have been omitted erroneously from the count of 65 plants within the scope of the definition and the survey.

It is plain that there was no error in admitting the Bureau of Labor Statistics wage survey under these circumstances. There was no other objection to it. Notwithstanding the clear and convincing testimony of the Bureau witness to the contrary, even if it be supposed that there were one or two more establishments than the 65 mentioned in the wage survey, the admissibility of the survey would not have been destroyed, just as the table offered by these six manufacturers and received in evidence was not rendered inadmissible by the fact that it included only 58 of those establishments.

On the balance of evidence revealed by this record, the criticism of the wage survey which counsel contends he hoped the lists might help him to develop could not even have affected the evidentiary weight of the survey to such a degree as to be material, or prejudicial. Even if it were proved that 66 or 67 plants are within the scope of this survey, instead of the 65 the survey and testimony establishes, the proof of the wages paid by 64 of them would still be an adequate base in evidence for a finding as to the minimum wage which prevails. Even a wholly successful effort to discredit on such a modest scope would leave a wage survey with a base much closer to a perfect census of the wages paid in the whole universe of such plants than is generally available in proceedings of this type. Nor could such a minute showing have affected the weight of evidence on this issue in such way as to have practical effect, because there was no conflicting showing such as requires any choice between these data and some others according to the relative weight to be attached to each set.

Reliance on the provision in the Administrative Procedure Act granting parties a qualified right to cross examination is misplaced here. When counsel asked the Bureau witness through whose testimony the survey was introduced to identify each of the sixty-five counted as within the scope of the survey and all those whose answers revealed them to be outside its scope, he could not remember them all. None of counsel's questions were ruled out of order, and the witness did not refuse to answer them. The full content of his testimonial knowledge on this subject was explored. Cross examination was not limited. The lists are not the personal property of the witness. They are records of the Department of Labor. The witness had access to them for certain purposes, such as the preparation of the

tabular survey, but he did not have access to them for the purpose of delivering or revealing them to persons not in the Bureau of Labor Statistics. Counsel's real objection, therefore, relates not to any limitation on his cross examination, but to the refusal of his application for a subpoena for data which he says he hopes might have aided to break down the testimony of the Bureau witness that the answers revealed there were 65, rather than 66 or 67, establishments within the scope of the survey.

As noted above, any error in refusing the subpoena application could not have affected the result here and does not arise out of curtailment of cross examination. The Administrative Procedure Act authorizes a requirement that subpoena duces tecum be issued only on a "showing of general relevance and reasonable scope of the evidence sought." The regulations of the Department impose this limitation (41 CFR 203.19). The declared purpose in the written application to use the lists to cross examine the witness as to his testimony that there are 65 establishments within the scope of the survey fails to make a "showing of general relevance * * * of the evidence sought," because there was no offer to prove that any establishment was misclassified as to whether it was within scope. Without such showing, there is no relevance in the lists, and they are not evidence. A subpoena is not a discovery device, available merely on the hope that it may lead to relevant evidence.

The subpoena application failed even more clearly to make the requisite "showing of * * * reasonable scope of the evidence sought." This second limitation calls for a quasi-judicial act of discretion in balancing applicant's need for the evidence he seeks by subpoena duces tecum against the burden it will be on the one who would have to produce. The only problem presented by denial of the lists here, therefore, is whether the hearing examiner abused his discretion in the way he struck the balance. E. B. Muller & Co. v. Federal Trade Commission, 142 F. 2d 511 (C.A. 6); Independent Directory Corp. v. Federal Trade Commission, 188 F. 2d 468 (C.A. 2); Jackson v. Allen Industries, 250 F. 2d (C.A. 6); National Labor Relations Board v. Quist-Shon Mark B. Co., 185 F. 2d 285 (C.A. 2); Tudsen v. Peiler, 297 F. 570 (C.A. 2).

As developed above, counsel cannot even now point to significant need for the subpoena. Even less reason was made to appear at the time the hearing examiner denied the application. Though counsel stated that the information he sought was not otherwise available to him, Government counsel took issue with this statement and offered to prove through the very expert witness retained by these six manufacturers that the information sought by the subpoena application was already well known to him and available to counsel. After the hearing examiner ruled that he would receive such evidence, this witness, on the advice of counsel, declined to testify on the issue. Counsel's need for the information sought by the subpoena application having thus been challenged, and he having thus suppressed the pertinent evidence, he offered nothing at all in its place. Significantly, when counsel for the six objecting manufacturers later called this same witness and his testimony on direct examination revealed that he had access at least to all but six of the plants' answers to the questionnaires, and when counsel introduced a tabular presentation of such data, while the witness withheld from Government counsel access to such answers, there was no renewal of the application for subpoena duces tecum.

As opposed to such a showing, the reasons supporting the Bureau's reluctance to reveal the lists are truly overwhelming. These six objecting manufacturers were represented at a panel conference of industry, labor, and Government, at which the terms and detail of this survey, including the questionnaire to be used, was planned. Counsel knew that the questionnaire, as well as the letter transmitting it, would give assurance:

> The replies will be treated in confidence. Information identified by company name will be seen only by sworn employees of the Bureau of Labor Statistics. The nature of the tabulations required for prevailing minimum wage determination may result in presenting data for some individual establishments without, however, identification by company name.

The first inquiry on the questionnaire (Item III) requires the answering plant to list the percentage of its sales accounted for by products of the industry as defined and the percentage accounted for by other products. The third question (Item V) inquires as to total employment in the establishment. It was on the basis of these answers that some plants were counted as within the scope of the survey, and others were counted as not being within it, and their members and the reasons for exclusion were testified to by the Bureau witness. To give counsel the list of plants in each such classification at a public hearing in response to his subpoena duces tecum would obviously reveal the substance of each plant's answers to these questions, in clear violation of the pledge of confidence which the Department gave to induce each plant to reveal this information.

The vital importance of giving, and scrupulously observing, this pledge of confidence in this survey, wage surveys of other industries for use in proceedings such as this, and the other surveys on which the many and important labor statistics publications of the Bureau are based, are all developed in the record here. The irreparable damage to all of this work which would flow from violating the pledge of confidence, even in this one instance, is also established in the record here.

No disagreement with the arrangements to keep the responses confidential appears to have been made on behalf of these manufacturers. To the contrary, special arrangement was made to save these parties from any disadvantage they might suffer from lack of access to the basic data. Though the Government had never regarded as helpful any tabulation of the data according to minimum wages paid by companies, as distinguished from plants, the data were tabulated also by companies at the special request of counsel for these six companies, and the tabulations made available to him for such use as he could make of them at hearing.

Balancing the subpoena's possible usefulness to the legitimate interests of these six companies as they were made to appear at the time the subpoena application was acted on and as they now appear in the light of the whole record, against the far-reaching consequences of the disclosure demanded, I have no hesitation in approving the decisions of the hearing examiner admitting the wage survey in evidence and denying the application for subpoena duces tecum.

In the light of my decisions in the prevailing minimum wage determination for the Scientific, Industrial, and Laboratory Instruments industry (22 F.R. 3729 and 23 F.R. 1986), where applications for similar subpoenas are discussed, it would have been an abuse of discretion if the hearing examiner had ruled in any other way on these points. In addition to the special circumstances mentioned above, the reason and authority expressed in these decisions is controlling, and I also rely on them in reaching this decision.

Locality. All of the establishments whose wages are reported in the survey are located in the continental United States. The data are presented for the industry as a whole and also broken down into four areas according to plant location. The six manufacturers who argue that no determination should be made, alternatively argue that if their primary contention is disallowed, separate determinations be made for each of these four areas, as "the best workable approximation" of the areas of competition shown by "marketing practices." The union, on the other hand, urges a single rate for the entire industry, because there is industrywide competition for the Government business.

Procurement of products of the industry pursuant to contracts subject to the act is obtained almost entirely from three sources. In order of dollar volume, they are: (1) Federal Supply Schedule 2620—Tires and Tubes, Pneumatic, Aircraft; (2) Federal Supply Schedules 2610 and 2630—Tires and Tubes, Pneumatic, except Aircraft, and Tires, Solid and Cushion; and (3) Army Ordnance Tank Automotive Command.

Each of the federal supply schedules represents procurement for a calendar year. A solicitation for offers is sent to all firms thought to be interested. Each bidder lists a single price on each item (with one minor exception), which he will supply. The price covers delivery to the Government installation, as well as the item itself. On the aircraft schedule, the obligation to make delivery at the bid price extends through the continental United States for every contractor. On the other schedules, bidders are permitted to exclude from the area in which they will compete one or more of the 13 zones into which the continental United States is divided for this purpose. Each of the 4 wage survey areas includes two, three, or four of the 13 zones, and no zone is divided between two or more areas.

Multiple awards are made on both schedules, for it is not the practice to give any company an exclusive contract on any class of items. There are eight contractors on the aircraft schedule, each operating only one plant which makes such products. On this most important one of the three types of Government contracting subject to the Act in this industry, therefore, it is abundantly clear that the competition for such business extends to all of the area where the qualified plants are located. Such plants are in active competition with one another to supply the demand at every using Government installation throughout the continental United States, regardless of their relative advantages and disadvantages, one to another, arising from the differences in length and difficulty of shipment route which differently located plants must face in making delivery to a common point.

Notwithstanding the option which the manufacturers of tires and tubes on the other than aircraft schedules have, to limit the zones in which they will compete, there is no way the General Services Administration can predict, when bids are invited, that Government installations in any particular area will be supplied with tires manufactured only in that area. There are 28 contractors on this schedule. Sixteen of them operate only one plant. Ten of these 16 offered to deliver their tires into every one of the 3 zones. Of the remaining 6 single plant companies, 5 offered to deliver their tires in zones in 3 of the 4 wage survey regions. Only 1 of the 16 single plant companies restricted its offering to a single wage survey region. Each of the remaining 12 contractor companies operated more than one plant. They offered to deliver their product in all of the 13 zones. Some of the establishments of these contractors must ship to all 13 zones as they are the only ones in which their company manufactures certain types and sizes of tires. The evidence of sales and deliveries under these Federal Supply Schedules confirms the broad pattern of inter-regional industry-wide competition which is so plainly apparent on the face of the contract documents.

Industry-wide competition for tire and related products contracts subject to the act is also demonstrated in the analysis of data supplied by the Army Ordnance Automotive Tank Command. This portion of the procurement was accomplished through a series of 45 contracts during the fiscal year considered. An average of approximately 10 different types of products and delivery points was specified in each of the invitations which resulted in these contracts. Some of the delivery points were fixed in the invitations and others required the bidder to assume an obligation to deliver at alternate points subsequently to be identified. Competition for this business is very keen, with an average of over 10 bids for each item and delivery point. Bids and awards are analyzed in terms of the four areas treated separately in the wage survey, both as to the location of the manufacturing plant and the destination to which delivery was contemplated. Of the 32 possible origin-destination combinations which this analysis provides (16 for bids and 16 for awards), 29 are actually represented in the bids and awards tabulated. The plants in each region of manufacture made more bids, both successful and unsuccessful, for delivery in other areas than they did for delivery in the area in which they were located. No area of destination received more bids, successful or unsuccessful, from plants located within the area than from plants located outside of it. Eighty-one percent of both bids and awards contemplated inter-area shipment from plant to Government installation.

The testimony of an officer of one manufacturer of a limited and qualified policy of his company to let each of its several plants serve primarily the market nearest to it does not cast doubt on the findings of industry-wide competition for Government contracts subject to the Act which is so imperatively required by the evidence above discussed. The witness made it clear that this policy (1) had no application even to his company's production of aircraft tires and those used on earthmoving equipment, (2) had no application to whatever policy may guide the marketing practice of the several other multiplant companies in this industry, and (3) did not preclude very substantial quantities of the production of his company's plants being sent into areas primarily served by his company's other plants. As the same counsel who represented this one of the six objecting manufacturers at the hearing also represented the three other leading multiplant companies and produced a witness from the trade association without developing any existence of this practice among the others or in the industry generally, I am unable to credit his characterization of this evidence in his proposed findings of fact as necessarily representing the practice of "the Typical Tire Manufacturing Establishment." Most of the plants in the industry are operated by companies which have only one plant, and these are represented on the supply schedules. No testimony about geographic division of the country among the units of multiplant systems could minimize the industry-wide competition which they offer.

It is thus apparent that no geographic limitations are feasible in this industry. The area of competition is industry-wide. Establishments, no matter where located, generally ship their products all over the country. Multiplant firms do not make every type of tire in each of their plants, so that no plant may be said to serve any specific geographic area exclusively. It is impossible to predict the geographic portion of the industry which will manufacture the products when bids are invited on either of the types of procurement which are involved here. For these reasons, I find that the locality in which tires and related products are to be manufactured or furnished under contracts subject to the act extends to all of the area in which the industry has its plants.

Prevailing minimum wages. The United Rubber, Cork, Linoleum and Plastic Workers of America urge that $1.93 per hour be determined to be the prevailing minimum wage in all of the area where the industry has its plants, and that no lower rate be provided. The six manufacturers who contend that no determination should be made argue that, if any is made, different wages should be determined for different geographic areas, and, if this is not done, that the prevailing minimum wage on an industry-wide basis should be determined to be $1.53, subject to a 13-cent tolerance for beginners for one month and a provision suspending the prevailing minimum wage requirement under circumstances which permit revocation of the contract guaranteed minimum under the terms of any applicable collective bargaining agreement. For the reasons hereinabove discussed concerning the area of competition for Walsh-Healey contracts subject to the Act, no geographic division of the industry is appropriate, and none will be made in this tentative decision.

Both the union and these six manufacturers base their conflicting industry-wide prevailing minimum wage contentions on the Bureau of Labor Statistics wage survey of November 1957. The union adds 8 cents for post-survey wage increases to a $1.85 hourly wage which it bases on the survey.

Two basic differences account for the 40 cent spread between the minimum wages these two groups regard as supported by the wage survey. The six manufacturers rely on a tabulation which substitutes "established" minimum rates for those actually paid, wherever such "established" rates are lower, whereas the union relies on tabulations which are confined to minimum wages actually paid during the payroll period. The union relies on a tabulation which excludes the wages for the lowest 1% of the workers in each plant, whereas the six employers rely on a tabulation which presents only the rate for the lowest paid covered worker in each of the several plants.

Most of the minimum wages on the tabulation which supports the $1.53 figure were not actually paid during the payroll period selected, nor at any time during that month. In the whole 7-month period of May through November 1957, both inclusive, only 39 of the 64 plants claim to have actually paid wages that low at any time in the period. Of the remaining 35 plants, 14 claim to have paid wages that low at some unspecified time prior to May 1957, 4 plants do not report ever having paid wages as low as the ones they call "established", and 7 plants have not reported any "established" wages. In an economy marked by rising wage rates, such as ours has been in recent years, rejection of minimum wages more recently paid in favor of others not shown to have more currency than some of those listed here does not appear to satisfy the statutory requirement that I determine the minimum wages actually "prevailing" for

"persons employed" in the particular industry.

A table which presents for each plant the lowest minimum wage it has paid over an extended period, as contrasted with the lowest it has paid in a particular pay period, presents a schedule of plant minimum wages lower than is likely to be found in the industry at any one time, and, therefore, a distorted picture of the industry minimum wage practice. The use of such a table is no more justifiable than would be the use of a table which listed for each plant the highest of the several minimum wages it had paid in a comparable period. For all these reasons, this tentative decision will be based on actual minimum wages most recently paid instead of these merely "established" as wage policy through payment in some earlier period.

In the ordinary case, the proposal of the union to ignore the wages paid by each plant to the lowest paid 1 percent of its employees stands on no better footing than the proposal to base the determination on minimum wages lower than those most recently paid. Though there is some justification in the union proposal because of the showing that the plant minimum wages reported may have been minimum wages paid to employees exclusively engaged in manufacture of minor products of the plant not within the definition of the industry here, there is no demonstration that this occurred at all, and no probability that it occurred in all of the plants or with sufficient frequency to justify ignoring the wages paid the lowest paid 1 percent of the employees. It also appears that one of the plants in making its return for the survey ignored the latest wage increase it was actually paying its employees during the payroll period, because it had plans to convert the increase at some time in the future from a cents per hour figure to an equivalent increase in the piece rates. Here again, however, this does not appear to have occurred with such frequency as to justify ignoring the wages paid the lowest 1 percent of the employees.

Readjustment of the table to reflect the wage increase being paid by the plant which made its report as though it were not paying such increase, would not alter the minimum wage to be determined under the statistical approach adopted both by the union and these employers.

Before applying this approach, in which both the union and the employers acquiesce, it is necessary to decide whether a tolerance will be provided for beginners. If one is to be provided, the prevailing minimum for other employees should be selected from the table which excludes beginners, but if no tolerance is provided for beginners, the prevailing minimum wage for application to all covered employees must be found in the data which includes the wages paid all covered employees.

Forty-three of the 64 establishments in the industry, employing 43,406 of its 69,762 covered workers reported a lowest established hiring rate. A smaller portion of the industry reported the employment of beginners during the pay period covered by the wage survey. This may result from the fact that the period of initial orientation or training for beginners is relatively short in this industry. The practice of employing beginners, however, appears to be sufficiently widespread that the objectives of the Act will be more fully accomplished by the provision of separate rates for beginners and other covered workers.

The differential between the lowest established hiring rate for beginners and the lowest established (or guaranteed) rate for covered workers other than beginners, does not exceed 10 cents per hour and the time required for beginners to reach the rate for others does not exceed one month in the establishments having such a differential which employ most of the covered workers in such establishment. The prevailing minimum wage will be determined, therefore, from data which exclude the wages paid beginners, and a tolerance of 10 cents per hour for a period not to exceed one month will be provided for beginners.

The plant minimum wages actually paid to covered employees during the payroll period covered by the wage survey varied from $1.00 to $2.40 per hour. The figure $1.69 falls at the middle division of this range. Fifty-five percent of the plants employing sixty-two percent of the covered workers in the industry paid no experienced covered worker less than $1.69. In view of this clear majority of the industry which paid no lower minimum wage and the placement of this particular minimum at the center of minimum wages in the industry, this tentative decision will be based on a finding that $1.69 per hour was the prevailing minimum wage for covered workers (excluding beginners) in November of 1957, the payroll period covered by the wage survey.

Evidence was received to the effect that since the time of the wage survey a wage increase of approximately 8 cents per hour had been negotiated and put in effect in approximately two-thirds of the plants employing over 90 percent of the employees in this industry. As most of the employees are employed on an incentive system, it is contemplated that this increase will be factored into the piece rates so that the amount actually payable to a particular employee in a particular week will be more or less than 8 cents per hour depending on whether his production is more or less than the standard for his group. This factoring process has been accomplished in only 13 of the plants, however, and the 8 cents is being paid as an hourly rate increase in the remainder of the plants. I cannot accept the argument of the six manufacturers that this intent to convert the present hourly rate increase into an equivalent piece rate increase requires me to ignore it in determining the minimum wage which prevails in this industry. As persons employed at their plant minimum wage participate in this increase as fully as the remainder of the covered workers in this industry, this tentative decision determines that the prevailing minimum wage has increased 8 cents per hour from the $1.69 it was in November of 1957, and that it is $1.77 per hour.

Finally, these six manufacturers introduced evidence that the collectively bargained agreements applicable to some of their plants provide contract minimum wage guarantees applicable to piecework employees, but contain a further provision that these will be inapplicable in the event of work stoppages or slowdowns of the type prohibited by the agreement. Only a minority of the plants in the industry were shown to be affected by any such agreement. These six manufacturers now propose that a tolerance or exemption from the Walsh-Healey prevailing minimum wage requirement be provided for application wherever their contracts provide relief from their contractual minimum wage obligations. Not one of the witnesses who proved such an agreement would testify that it had application to as many as one one-hundredth of 1 percent of the man-workweeks in the plants to which it applied. It does not, therefore, have a substantial effect on the prevailing minimum wage.

The evidence was that such provisions are sometimes invoked against employees for slowdowns and work stoppages caused by other employees with whom they are not in concert. The application of any such tolerance or exemption to the Walsh-Healey minimum wage requirement would, of course, discriminate between the union employees who happen to work under such contracts and the nonunion employees who do not. No precedent for any such suspension of statutory minimum wage requirements is to be found in any other minimum wage determination under this act or in the application of any other statutory minimum wage of which I have been advised. I see no just basis for extending such provisions to the majority of plants not shown to be subject to them, nor to the minimum wage requirements of the Walsh-Healey Act for which they were not devised. No such tolerance or exemption will be provided in this tentative decision.

Accordingly, upon the findings and conclusions stated herein, pursuant to authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. 35 et seq.), and in accordance with The Administrative Procedure Act (60 Stat. 237; 5 U.S.C. 1001), notice is hereby given that I propose to amend Title 41 of the Code of Federal Regulations by adding a new § 202.53 to read as follows:

§ 202.53 Tires and related products industry.

(a) *Definition.* The tires and related products industry is defined as that industry which manufactures or furnishes tires and related products, including pneumatic casings, inner tubes, industrial and highway solid tires of 2 inches or more in cross section, and camelback.

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the tires and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than $1.77 per hour, arrived at either on a time or piece rate basis.

(c) *Subminimum wages authorized.* Beginners or probationary workers may be employed in the manufacture or furnishing of products of the tires and related products industry under contracts subject to the act at a minimum wage of not less than $1.67 per hour. A beginner or probationary worker for the purpose of this subsection is a new plant employee hired at a rate lower than that established for a specific job during the period of time required to receive orientation or initial training for that job and who has less than 160 hours experience in the plant in which he is employed.

(d) *Effect on other obligations.* Nothing in this section shall affect any other obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within thirty days from the date of the publication of this notice in the FEDERAL REGISTER, interested parties may submit written exceptions, together with supporting reasons, to the tentative decision above set out. Exceptions should be directed to the Secretary of Labor and filed with the Chief Hearing Examiner, Room 4414, United States Department of Labor, Washington 25, D.C.

Signed at Washington, D.C., this 20th day of October 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-9094; Filed, Oct. 27, 1959; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Economic Regs. Docket No. 10942]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Notice of Proposed Rule Making

OCTOBER 23, 1959.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment to Part 241 of the Economic Regulations which would require the reporting of traffic enplanements at each on-line airport served by a certificated air carrier.

The details of proposed regulation are set forth below in the Explanatory Statement and the proposed amendment is set forth below. This regulation is proposed under the authority of sections 204(a) and 407(a) of the Federal Aviation Act of 1958 (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of seven (7) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before November 27, 1959, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available on or after December 1, 1959 for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

By the Civil Aeronautics Board.

[SEAL] MABEL MCCART,
Acting Secretary.

Explanatory Statement. Part 241 of the Board's Economic Regulations, Uniform System of Accounts and Reports, sets forth the reporting and accounting requirements for certificated air carriers. Section 241.25 of this regulation specifies the requirements for traffic and capacity elements. Schedule T-4 thereof pertains to on-line airport activity data. There are, however, no provisions in Schedule T-4 which require submission of sufficient information or data concerning traffic enplanements at on-line airports.

It appears to the Board that for discharging its regulatory duties and performing its responsibilities under the Act it needs data with which to measure the workload of the certificated air carriers at on-line airports. The fact that the present reporting requirements do not provide for the furnishing of such information hampers the Board in preparing certain required analyses.

A requirement for the submission of traffic enplanements at on-line airports will effectively aid the Board in the evaluation of individual stations relative to costs involved and uses made of transport facilities. This information will also provide a basis for improving the quality of analyses and technical studies necessary to the proper discharge of the Board's functions.

In addition to the Board's need for this information the Federal Aviation Agency advises that this information will be helpful in the discharge of the Administrator's functions, pertaining to airport planning and development.

The Board, therefore, considers it advisable to amend the existing reporting requirements to specifically provide for the reporting of traffic enplanements at each on-line airport served by a certificated air carrier. Under the proposed rule on-line revenue traffic originations in scheduled service for each class of traffic, by airport, will continue to be reported as in the past. In addition, columns are provided for the reporting of other revenue passenger enplanements and total revenue passenger enplanements in both scheduled and nonscheduled services. The portion of Schedule T-4 which will be affected by this amendment is set forth below in its amended form as Appendix A.

Accordingly, it is proposed to amend Part 241 of the Economic Regulation (14 CFR Part 241) by amending § 241.25, Schedule T-4, On-line Airport Activity Data as follows:

1. By amending subparagraph (i) to read:

(i) Column 11, "Passenger Enplanements—Scheduled Services—On-Line Originations", shall reflect for each on-line airport the total number of on-line revenue passengers commencing a journey in scheduled services of the reporting carrier.

2. By deleting subparagraph (j) and substituting therefor the following:

(j) Column 12, "Passenger Enplanements—Scheduled and Nonscheduled Services—Other Enplanements" shall reflect for each on-line airport the number of on-line transfer and stopover revenue passenger enplanements in scheduled and nonscheduled services.

3. By adding a new subparagraph (k) to read:

(k) Column 13, "Passenger Enplanements—Scheduled and Nonscheduled Services—Total Enplanements", shall reflect for each on-line airport the total number of on-line revenue passenger enplanements in scheduled and nonscheduled services.

4. By adding a new subparagraph (l) to read:

(l) Columns 14 through 18, "Mail, Express and Freight Originations (Tons)" shall reflect in appropriate columns for each on-line airport the total tons of on-line mail, express or freight originally dispatched in the carrier's scheduled services.

APPENDIX A—ON-LINE REVENUE TRAFFIC

Passenger enplanements			Mail, express, and freight originations (tons)				
Scheduled services	Scheduled and nonscheduled services		Scheduled services				
On-Line originations	Other enplanements	Total enplanements	Priority U.S. Mail	Nonpriority U.S. Mail	Foreign Mail	Express	Freight
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)

[F.R. Doc. 59-9115; Filed, Oct. 27, 1959; 8:50 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-140]

FEDERAL AIRWAYS AND CONTROL AREAS

Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.6216 and 601.6216 of the regulations of the Administrator, as hereinafter set forth.

The heavy volume of traffic between the Chicago, Ill.-Milwaukee, Wis., area and Toronto, Ont., indicates a need to increase the air traffic flow capabilities between these areas. At present, traffic between the Chicago-Milwaukee area and Toronto is provided with a dual airway structure only as far as the Saginaw, Mich.-Lansing, Mich., areas. The Federal Aviation Agency has under consideration a proposed extension of VOR

Federal airway No. 216 and its associated control areas from Saginaw, Mich., to Toronto. This would provide an adequate dual airway structure for the entire distance between the Chicago-Milwaukee area and Toronto and would facilitate the movement of aircraft between these terminals. If such action is taken, Victor 216 would be extended from the Saginaw VOR via the Peck, Mich., VOR to the Toronto VOR.

However, since a portion of the extension from Peck to Toronto would lie outside the United States and in Canada, the designation of that portion would be the responsibility of the Canadian Government. Accordingly, the Department of Transport of the Canadian Government has been contacted and they have agreed to designate the Canadian portion of Victor 216 if this proposal is put into effect.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend §§ 600.6216 (14 CFR, 1958 Supp., 600.6216, 24 F.R. 2229) and 601.6216 (14 CFR, 1958 Supp., 601.6216) as follows:

1. Section 600.6216 *VOR Federal airway No. 216 (Lamar, Colo., to Saginaw, Mich.)*:

(a) In the caption, delete, "*(Lamar, Colo., to Saginaw, Mich.)*" and substitute therefor, "*(Lamar, Colo., to Iowa City, Iowa, and Janesville, Wis., to Toronto, Ont.)*."

(b) In the text, delete, "to the Saginaw, Mich., VOR" and substitute therefor, "Saginaw, Mich., VOR; Peck, Mich., VOR; to the Toronto, Ont., VOR, excluding that portion outside the continental limits of the United States."

2. In the caption of § 601.6216 *VOR Federal airway No. 216 control areas (Lamar, Colo., to Saginaw, Mich.)*, delete, "(Lamar, Colo., to Saginaw, Mich.)" and substitute therefor, "*(Lamar, Colo., to Iowa City, Iowa, and Janesville, Wis., to Toronto, Ont.)*."

Issued in Washington, D.C., on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9083; Filed, Oct. 27, 1959; 8:45 a.m.]

[14 CFR Parts 600, 601]

[Airspace Docket No. 59-WA-197]

FEDERAL AIRWAYS, CONTROL AREAS AND REPORTING POINTS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.219, 601.219 and 601.4219 of the regulations of the Administrator, as hereinafter set forth.

Red Federal airway No. 19, presently extends from Traverse City, Mich., to Akron, Ohio; from Remington, Va., to Quantico, Va.; and from Brooke, Va., to Norfolk, Va. The Federal Aviation Agency IFR peak-day survey for the period from July 1, 1958 through June 30, 1959 showed less than 10 aircraft movements for the segment between Flint, Mich., and Akron, Ohio. On the basis of the survey, it appears that the retention of this airway segment and its associated control areas is unjustified as an assignment of airspace and that the revocation thereof would be in the public interest. If such action is taken, Red 19 and its associated control areas would then extend from Traverse City to Flint; from Remington to Quantico; and from Brooke to Norfolk. Section 601.4219 relating to the associated designated reporting points would be amended accordingly.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica, N.Y. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend §§ 600.219 (14 CFR, 1958 Supp., 600.219, 24 F.R. 1304), 601.219 and 601.4219 (14 CFR, 1958 Supp., 601.219, 601.4219) as follows:

1. Section 600.219 *Red Federal airway No. 19 (Traverse City, Mich., to Norfolk, Va.)*:

(a) In the caption, delete "*(Traverse City, Mich., to Norfolk, Va.)*" and substitute therefor, "*(Traverse City, Mich., to Flint, Mich.; Remington, Va., to Quantico, Va.; and Brooke, Va., to Norfolk, Va.)*".

(b) In the text, delete "Flint, Mich., ILS outer marker; Detroit, Mich, radio range station; the intersection of the southeast course of the Detroit, Mich., radio range and the west course of the Akron, Ohio, radio range to the Akron, Ohio, radio range station." and substitute therefor, "to the Flint, Mich., ILS outer marker compass locator."

2. In the caption of § 601.219 *Red Federal airway No. 19 control areas (Traverse City, Mich., to Norfolk, Va.)*, delete "*(Traverse City, Mich., to Norfolk, Va.)*" and substitute therefor, "*(Traverse City, Mich., to Flint, Mich.; Remington, Va., to Quantico, Va.; and Brooke, Va., to Norfolk, Va.)*.

In the caption of § 601.4219 *Red Federal airway No. 19 (Traverse City, Mich., to Norfolk, Va.)*, delete "*(Traverse City, Mich., to Norfolk, Va.)*" and substitute therefor, "*(Traverse City, Mich., to Flint, Mich.; Remington, Va., to Quantico, Va.; and Brooke, Va., to Norfolk, Va)*."

Issued in Washington, D.C., on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9085; Filed, Oct. 27, 1959; 8:46 a.m.]

[14 CFR Part 601]

[Airspace Docket No. 59-WA-164]

CONTROL ZONES

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2120 of the regulations of the Administrator, as hereinafter set forth.

The Federal Aviation Agency has under consideration the modification of the Rochester, Minn., control zone. The present Rochester control zone includes the airspace within a 5-mile radius of Lobb Field (formerly Rochester Airport) with extensions to the south and southwest. To provide protection for aircraft executing VOR standard instrument approaches when the Rochester VOR is relocated approximately November 1, 1959, at Lat. 43°46'59" N, Long. 92°35'46" W, it is proposed to modify the southwest extension of the Rochester control zone to include the airspace within 2 miles either side of the Rochester VOR 027° radial from the 5-mile radius zone to the VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend § 601.2120 (14 CFR, 1958 Supp., 601.2120) to read as follows:

§ 601.2120 Rochester, Minn., control zone.

Within a 5-mile radius of Lobb Field, Rochester, Minn., within 2 miles either side of the south course of the RR from the 5-mile radius zone to a point 12 miles south of the RR, and within 2 miles either side of the 027° radial of the Rochester VOR from the 5-mile radius zone to the VOR.

Issued in Washington, D.C., on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9084; Filed, Oct. 27, 1959; 8:45 a.m.]

[14 CFR Parts 600, 601, 602]

[Airspace Docket No. 59-WA-70]

FEDERAL AIRWAYS, CONTROL AREAS AND CODED JET ROUTES

Extension of Federal Airway, Associated Control Areas and Establishment of Coded Jet Route

Pursuant to the authority delegated to me by the Administrator § 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 602 and §§ 600.-6146, 601.6146 of the regulations of the administrator, as hereinafter set forth.

VOR Federal airway No. 146 presently extends from Wilkes-Barre, Pa., to Providence, R.I. The Federal Aviation Agency has under consideration extension of Victor 146 from Providence, R.I., to Nantucket, Mass., and establishment of VOR/VORTAC jet route No. 68 from Providence, R.I., to Nantucket, Mass., to provide a route for jet aircraft en route over Nantucket destined for New York International Airport via Providence, R.I., and Wilton, Conn. The extension of Victor 146 and establishment of Jet Route 68-V between Nantucket and Providence in conjunction with VOR Federal airway No. 30 and VOR/VORTAC jet route No. 62, will provide a dual airway structure for incoming and departing overseas traffic. If such action is taken, VOR Federal airway No. 146 and its associated control areas would then extend from Wilkes-Barre, Pa., to Nantucket, Mass.; Jet Route No. 68-V would be established from Nantucket, Mass., via the Providence VOR to the intersection of the Providence VOR 270° with the Boston, Mass., VOR 231° radials.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Regional Administrator, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica, N.Y. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Administrator, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Administrator.

This amendment is proposed under section 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

In consideration of the foregoing, it is proposed to amend Part 602 and §§ 600.6146, 601.6146 (14 CFR, 1958 Supp., Part 602 and 600.6146, 601.6146) as follows:

§ 600.6146 [Amendment]

1. Section 600.6146 *VOR Federal airway No. 146 (Wilkes-Barre, Pa., to Providence, R.I.)*:

(a) In the caption, delete "*(Wilkes-Barre, Pa., to Providence, R.I.)*" and substitute therefor "*(Wilkes-Barre, Pa., to Nantucket, Mass.)*".

(b) In the text, delete "to the Providence, R.I., omnirange station." and substitute therefor "Providence, R.I., VOR; to the Nantucket, Mass., VOR."

§ 601.6146 [Amendment]

2. In the caption of § 601.6146 *VOR Federal airway No. 146 control areas (Wilkes-Barre, Pa., to Providence, R.I.)*, delete "*(Wilkes-Barre, Pa., to Providence, R.I.)*" and substitute therefor "*(Wilkes-Barre, Pa., to Nantucket, Mass.)*".

3. Section 602.568 is added to read:

§ 602.568 VOR/VORTAC jet route No. 68 (Providence, R.I., to Nantucket, Mass.).

From the point of INT of the Providence VOR 270° and the Boston, Mass., VOR 231° radials, via the Providence, R.I., VOR to the Nantucket, Mass., VOR.

Issued in Washington, D.C. on October 21, 1959.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 59-9082; Filed, Oct. 27, 1959; 8:45 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[TC 417.33]

MAGNESIUM ALLOYS

Notice of Prospective Classification

OCTOBER 22, 1959.

It appears probable that a correct interpretation of the provision for magnesium alloys in paragraph 375, Tariff Act of 1930, as modified, requires that certain alloys not in chief value of magnesium, i.e., an alloy in ingot form containing 80 percent magnesium and 20 percent thorium, in chief value of thorium, and an alloy in sintered pellet form containing 60 percent magnesium and 40 percent zirconium, in chief value of zirconium, be excluded therefrom, and classified as articles not specially provided for, manufactured, composed in

chief value of other metals, under paragraph 397, Tariff Act of 1930, as modified and dutiable at the rate of 22½ per centum ad valorem.

This would result in the assessment of duty on such alloys not in chief value of magnesium at a rate of duty higher than has been assessed on them under an established and uniform practice.

Pursuant to § 16.10a(d) of the Customs Regulations, notice is hereby given that the existing uniform practice of classifying such merchandise as magnesium alloys under paragraph 375, Tariff Act of 1930, and dutiable at the rate of 20 cents per pound on the metallic magnesium content and 10 per centum ad valorem is under review in the Bureau of Customs.

Consideration will be given to any relevant data, views, or arguments pertaining to the correct tariff classification of such merchandise which are submitted in writing to the Bureau of Customs, Washington 25, D.C. To assure consideration, such communications must be received in the Bureau not later than 30 days from the date of publication of this notice. No hearings will be held.

[SEAL] RALPH KELLY,
Commissioner of Customs.

[F.R. Doc. 59-9114; Filed, Oct. 27, 1959; 8:50 a.m.]

POST OFFICE DEPARTMENT

[Orders 172-175]

CERTAIN DESIGNATED OFFICIALS

Redelegation of Authority With Respect to Real Property Management

OCTOBER 15, 1959.

The following are texts of various orders of the Assistant Postmaster General, Bureau of Facilities, with respect to the above subject:

ORDER 172

Pursuant to authority of Order No. 55734, dated September 21, 1954 (19 F.R. 6169), authority is hereby delegated to the Regional Real Estate Managers or to any person acting as such officer in the several regional offices of the Post Office Department to take final action in his own name with respect to real property management as follows:

A. *Month-to-month rentals.* To make agreements for space on a month-to-month basis.

B. *Temporary space.* To make agreements for space for holiday or seasonal needs for fixed periods not in excess of two months where the rental is not in excess of $10,000.00 a month and to make agreements for space for fixed periods not in excess of six months to meet emergency conditions where the rental is not in excess of $5,000.00 a month.

C. *Land options (nominal consideration).* To make the basic decision:

1. As to whether the case is to be handled under the assignable option procedures;

2. As to whether the case is to be advertised without the benefit of assignable site options;

3. To approve options for advertising purposes on sites priced up to $25,000.00 provided the option price does not exceed 25% of the total estimated project cost (land and building);

4. To assign such site options to the successful bidder when the acceptance of the agreement to lease falls within his delegated authority.

D. *Leases where annual rental is not in excess of $15,000.* 1. To make lease extension agreements or supplemental agreements for periods of not in excess of three years;

2. To accept agreements to lease quarters for postal purposes (including garages and related facilities) when the term of the lease covered by the agreement is for 10 years or less;

3. To sign and execute lease documents which are developed as a result of action taken in Paragraph 2, above;

4. To exercise or reject options to renew leases where the renewal term of the lease under the option is for 10 years or less;

5. To execute contracts or agreements for garage or truck parking space for periods of not in excess of one year;

6. To cancel leases or agreements entered into or extended under authority of Paragraphs 1 through 5 of this Paragraph D;

7. To make amendments to bids, leases, contracts or agreements, entered into or extended under authority of Paragraphs 1 through 5 of this Paragraph D, for increases in space, building requirements, services or improvements, and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed 25% of the annual rental specified in the lease and is to be

a. Paid for by the Post Office Department, or

b. Paid for by the Lessor who is to be reimbursed by the Post Office Department either

(1) In a lump sum, or

(2) By amortization of the cost over the remaining term of the lease.

E. *Leases where annual rental is in excess of $15,000 and/or longer than 10 years.* To make amendments to bids, leases, contracts or agreements entered into or extended for increases in space, building requirements, services or improvements and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed $500.00 and is to be paid for by the Post Office Department, or is to be paid for by the Lessor who is to be reimbursed by the Post Office Department either in a lump sum or by amortization of the cost over the term of the lease.

F. *Repairs and maintenance.* To take bids for repairs and maintenance and deduct the cost of same from lessor's rental payments when leased facilities are improperly maintained.

G. *Paid advertising.* To commit the Government for advertising of leased postal facilities and authorize payment of same.

H. *Miscellaneous expenditures.* To purchase personal property or services or pay fees necessary in the performance of the authority herein delegated but limited to committing the Government for title commitments, land surveys, real estate appraisals and to the purchase of maps and/or photographs where the cost of such property, service or fee does not exceed $100.00, and to authorize payment of same, except that not more nor less than $1.00 shall be paid as consideration for an option to purchase land.

This order shall be effective August 11, 1959.

This supersedes and cancels Order No. 156 dated March 24, 1958 (24 F.R. 2754).

ORDER 173

Pursuant to authority of Order No. 55734, dated September 21, 1954 (19 F.R. 6169), authority is hereby delegated to the Director of Real Estate Leasing, Division of Real Estate, or to any person acting as such officer in the Post Office Department to take final action in his own name with respect to real property management throughout the United States and its possessions, including Guam, as follows:

A. *Month-to-month rentals.* To make agreements for space on a month-to-month basis.

B. *Temporary space.* To make agreements for space for holiday, or seasonal needs for fixed periods not in excess of two months where the rental is not in excess of $10,000.00 a month and to make agreements for space for fixed periods not in excess of six months to meet emergency conditions where the rental is not in excess of $5,000.00 a month.

C. *Land options (nominal consideration).* To make the basic decision:

1. As to whether the case is to be handled under the assignable option procedures;

2. As to whether the case is to be advertised without the benefit of assignable site options;

3. To approve options for advertising purposes on sites priced up to $25,000.00 provided the option price does not exceed 25% of the total estimated project cost (land and building);

4. To assign such site options to the successful bidder when the acceptance of the agreement to lease falls within his delegated authority.

D. *Leases where annual rental is not in excess of $15,000.00.* 1. To make lease extension agreements or supplemental agreements for periods of not in excess of three years;

2. To accept agreements to lease quarters for postal purposes (including garages and related facilities) when the term of the lease covered by the agreement is for 10 years or less;

3. To sign and execute lease documents which are developed as a result of action taken in Paragraph 2, above;

4. To exercise or reject options to renew leases where the renewal term of the lease under the option is for 10 years or less;

5. To execute contracts or agreements for garage or truck parking space for periods of not in excess of one year;

6. To cancel leases or agreements entered into or extended under authority of Paragraphs 1 through 5 of this Paragraph D;

7. To make amendments to bids, leases, contracts or agreements, entered into or extended under authority of Paragraphs 1 through 5 of this Paragraph D, for increases in space, building requirements, services or improvements, and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed 25% of the annual rental specified in the lease and is to be—

a. Paid for by the Post Office Department, or

b. Paid for by the lessor who is to be reimbursed by the Post Office Department either

(1) In a lump sum, or

(2) By amortization of the cost over the remaining term of the lease.

E. *Leases where annual rental is in excess of $15,000.00 and/or longer than 10 years.* To make amendments to bids, leases, contracts or agreements entered into or extended for increases in space, building requirements, services or improvements and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed $500.00 and is to be paid for by the Post Office Department, or is to be paid for by the lessor who is to be reimbursed by the Post Office Department either in a lump sum or by amortization of the cost over the term of the lease.

F. *Repairs and maintenance.* To take bids for repairs and maintenance and deduct the cost of same from lessor's rental payments when leased facilities are improperly maintained.

G. *Paid advertising.* To commit the Government for advertising of leased postal facilities and authorize payment of same.

H. *Miscellaneous expenditures.* To purchase personal property or services or pay fees necessary in the performance of the authority herein delegated but limited to committing the Government for title commitments, land surveys, real estate appraisals and to the purchase of maps and/or photographs where the cost of such property, service or fee does not exceed $100.00, and to authorize payment of same, except that not more nor less than $1.00 shall be paid as consideration for an option to purchase land.

This order shall be effective October 15, 1959.

This supersedes and cancels Order No. 158, dated March 24, 1958 (24 F.R. 2755).

ORDER 174

Pursuant to authority of Order No. 55734, dated September 21, 1954 (19 F.R. 6169), and Order No. 55884, dated April 28, 1955 (20 F.R. 3548), authority is hereby delegated to the Director of Real Estate, Division of Real Estate, or to any person acting as such officer in the Post Office Department, to take final action in his own name with respect to real property management throughout the United States and its possessions, including Guam, as follows:

A. *Month-to-month rentals.* To make agreements for space on a month-to-month basis.

B. *Temporary space.* To make agreements for space for holiday or seasonal needs for fixed periods not in excess of two months where the rental is not in excess of $25,000.00 a month and to make agreements for space for fixed periods not in excess of six months to meet emergency conditions where the rental is not in excess of $15,000.00 a month.

C. *Land options.* To make the basic decision when the consideration does not exceed $1.00.

1. As to whether an advertisement for space is to be handled under the assignable site option procedures.

2. As to whether advertisement for space is to be handled without benefit of an assignable site option.

3. To use options for advertising purposes on sites not exceeding $50,000.00 providing the option price does not exceed 30% of the total estimated cost of land and improvements.

4. To assign site options to successful bidder regardless of amount.

D. *Leases.* 1. To make lease extension agreements for periods of not to exceed three years' term and an annual rental of $20,000.00.

2. To accept agreements to lease space for postal purposes when the term of the lease covered by the agreement is for 20 years or less and does not exceed $20,000.00 in annual rental.

3. To sign and execute lease documents when the term of the lease is for 20 years or less and does not exceed $20,000.00 in annual rental.

4. To exercise or reject options to renew leases when the basic term of the lease is for 20 years or less and does not exceed $20,000.00 in annual rental.

5. To execute contracts or agreements for truck parking space for periods not in excess of 5 years in terms and $20,000.00 in annual rental.

6. To cancel or terminate leases, contracts or agreements where the term of the lease is for 20 years or less and does not exceed $20,000.00 in annual rental.

7. To make amendments to bids, leases, contracts or agreements regardless of annual rental or term of years, for increases in space, building requirements, services or improvements and to make repairs and/or replacements which under the terms of the lease are the responsibility of the Post Office Department, when the total cost in each case does not exceed 25% of annual rental specified or $5,000.00, whichever is the lesser, and is to be paid for by the Post Office Department either in a lump sum or by amortization of the cost over the term of the lease.

E. *Repairs and maintenance.* To take bids for repairs and maintenance and deduct the cost of same from lessor's rental payments when leased facilities are improperly maintained.

F. *Paid advertising.* To commit the Government for advertising of leased postal facilities and authorize payment of same.

G. *Miscellaneous expenditures.* To authorize the payment of fees for services necessary in the performance of the authority herein delegated where the cost of such services does not exceed $2,000.00.

This order shall be effective October 15, 1959.

This supersedes and cancels Order No. 166, dated March 11, 1959 (24 F.R. 2450).

ORDER 175

Pursuant to authority of Order No. 55734, dated September 21, 1954 (19 F.R. 6169), authority is hereby delegated to the Real Estate Officers in the several regional offices of the Post Office Department to take final action with respect to the following:

A. *Lease extension agreements.* To make lease extension agreements or supplemental agreements for periods of not in excess of one year and containing cancellation privileges of not more than 90 days where annual rental is not in excess of $2,500.00.

B. *Paid advertising.* To commit the Government for advertising of leased postal facilities and authorize payment of same.

C. *Miscellaneous expenditures.* To purchase personal property or services or pay fees necessary in the performance of the authority herein delegated but limited to committing the Government for title commitments, land surveys, real estate appraisals and to the purchase of maps and/or photographs where the cost of such property, service or fee does not exceed $100.00, and to authorize payment of same, except that not more nor less than $1.00 shall be paid as consideration for an option to purchase land.

This order shall be effective October 15, 1959.

This supersedes and cancels Order No. 159 dated March 24, 1958 (24 F.R. 2756).

(R.S. 161, as amended, 396, as amended, sec. 1(b), 63 Stat. 1066; 5 U.S.C. 22, 133z-15, 369)

[SEAL] HERBERT B. WARBURTON, *General Counsel.*

[F.R. Doc. 59-9110; Filed, Oct. 27, 1959; 8:50 a.m.]

ORGANIZATION AND ADMINISTRATION

Controller

Federal Register Document 58-9359 published in the FEDERAL REGISTER of November 11, 1958, at pages 8758-8769 and amended by Federal Register Document 58-9818 (23 F.R. 9146), Federal Register Document 59-2643 (24 F.R. 2450), and by Federal Register Document 59-7648 (24 F.R. 7424-26) is further amended by striking out "824.4—Controller", and inserting in lieu thereof, the following:

824.4—CONTROLLER

a. Advises and assists the Regional Operations Director in the general direction of all financial matters within the region.

b. Compiles and prepares the regional budget and maintains accounting records related to the control of funds; develops regional targets.

c. Evaluates and interprets operating conditions disclosed by accounting reports.

d. Makes unit cost studies and makes recommendations as a basis for effecting cost reductions.

e. Assures the security of funds, revenues, and assets.

f. Compiles accounting cost analyses, financial, and statistical reports for use in headquarters and regional decision-making.

g. Maintains general and cost ledgers for regional accounts; settles postmaster accounts; processes transportation payment claims; processes employees' accounts; withholds income taxes and makes other deductions from compensation of officers and employees as authorized or required by law.

h. Carries out regional disbursing functions.

i. Adjudicates and settles tort claims under $100, and postmasters' claims for unavoidable losses by fire, burglary, robbery or casualty and claims for losses of Treasury Department papers and funds of $100 and under, in accordance with policies and standards prescribed by the General Counsel.

j. Forwards postmasters' claims for losses by improper payments, and physical losses other than those covered in the foregoing paragraph to the Finance Officer, Bureau of Finance.

k. Authorizes post office cash reserves and bank accounts up to $50,000.

l. Approves the payment of postal savings accounts of deceased or incompetent depositors to other than the depositor.

m. Designates and revokes post offices as postal savings depositories, United States savings bond issuing agents, and United States savings stamp offices; establishes and discontinues international money order business at post offices.

n. Pays unclaimed postal savings accounts on application of depositor.

o. Administers lockbox rental matters other than misuse cases.

p. Determines extent of employee liability for loss of funds and stamps.

q. Designates assistant disbursing officers.

r. Designates new depository banks; establishes maximum and minimum balances; analyzes bank charges for depositories maintaining postal funds of under $50,000.

(R.S. 161, as amended, 396, as amended; sec. 1(b), 63 Stat. 1066; 5 U.S.C. 22, 133z-15, 369)

[SEAL] HERBERT B. WARBURTON,
General Counsel.

[F.R. Doc. 59-9111; Filed, Oct. 27, 1959; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-21]

ELECTRO CHEMICAL LABORATORIES CORP.

Order of Dismissal

In the matter of Electro Chemical Laboratories Corporation, Application for Waste Disposal License, Docket No. 27-21.

On October 14, 1959 at a pre-hearing conference held in the above entitled proceeding, and after a discussion of issues and evidence related thereto with the staff, applicant herein expressed a desire to and did withdraw its application herein without prejudice to a later filing of another application for a different type of license.

Wherefore, it is ordered, That this proceeding is dismissed without prejudice to the submittal by Electro Chemical Laboratories Corporation of another application for license at a later time.

Dated: October 21, 1959, Germantown, Maryland.

SAMUEL W. JENSCH,
Presiding Officer.

[F.R. Doc. 59-9080; Filed, Oct. 27, 1959; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

U.S. ATLANTIC AND GULF/AUSTRALIA-NEW ZEALAND

Notice of Tentative Conclusions and Determinations Regarding Essentiality and United States Flag Service Requirements of Trade Route No. 16

Notice is hereby given that on October 19, 1959, the Maritime Administrator, acting pursuant to section 211 of the Merchant Marine Act, 1936, as amended, found and determined the essentiality and United States flag service requirements of United States foreign Trade Route No. 16, and in accordance with his action of July 27, 1956, ordered that the following tentative conclusions and determinations reached by the Maritime Administrator with respect to said trade route be published in the FEDERAL REGISTER:

1. Trade Route No. 16, as described below, is reaffirmed as an essential foreign trade route of the United States and described as follows: *Trade Route No. 16—U.S. Atlantic and Gulf/Australia—New Zealand.* Between U.S. Atlantic and Gulf ports (Maine-Texas, inclusive) and ports in Australia, New Zealand, New Guinea and South Sea Islands within the general area, via the Panama Canal.

2. United States flag freighter sailing requirements on Trade Route No. 16 are approximately two sailings per month, all sailings serving U.S. Atlantic ports and Australia and the majority of the sailings serving U.S. Gulf ports, either outbound or inbound, with an average of approximately one sailing per month direct from U.S. Atlantic ports to the foreign area and not less than six sailings annually serving New Zealand.

3. C-2 type freight vessels are suitable for operation to the full range of the United States and foreign ports on Trade Route No. 16 pending the introduction of replacement vessels of a design approved by the Maritime Administration. The replacement vessels should be faster and have larger cargo carrying capacity than the C-2 vessels presently operating on the route and equipped with adequate deep tank and refrigerated cargo space.

Any person, firm or coroporation having any interest in the foregoing who desires to offer comments and views or request a hearing thereon, should submit same in writing in triplicate to the Chief, Office of Government Aid, Maritime Administration, Department of Commerce, Washington 25, D.C., by close of business on November 27, 1959. In the event a hearing is requested, a statement must be included giving the reasons therefor. Any hearing thereby afforded will be before an Examiner on an informal basis only. The Maritime Administrator will consider these comments and views and take such action with respect thereto as in his discretion he deems warranted.

Dated: October 23, 1959.

By order of the Maritime Administrator.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 59-9109; Filed, Oct. 27, 1959; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-17973 etc.]

GULF OIL CORP. ET AL.

Notice of Applications, Consolidation and Date of Hearing

OCTOBER 22, 1959.

In the matters of Gulf Oil Corporation, Operator, Docket No. G-17973; Jacqueline Anderson, Docket No. G-18179; Shell Oil Company, Docket No. G-18181; Northern Natural Gas Company, Docket No. G-18309; Barbara Oil Company, Docket No. G-18492; Pickrell Drilling Company, et al., Docket No. G-18582.

Take notice that applications for certificates of public convenience and necessity have been filed in the above-captioned proceedings, pursuant to section 7(c) of the Natural Gas Act, authorizing the applicants therefor to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Northern Natural Gas Company (Northern), a Delaware corporation with principal office at 2223 Dodge Street, Omaha, Nebraska, filed its application in Docket No. G-18309 on April 14, 1959. Northern proposes to construct and operate approximately 21 miles of 16-inch pipeline extending in a southeasterly direction from a point of connection with its existing main line at the discharge side of its existing Mullinville Compressor Station to a point in or near the Glick Field, Kiowa, Comanche, and Barber Counties, Kansas, together with (1) a 50 MMcf per day dehydration and hydrocarbon extraction plant to be located approximately 1.4 miles downstream from the southern terminus of said line and (2) a gathering system located in Glick Field connecting to the southern terminus of said line and con-

sisting of approximately 2.4 miles of 10-inch line, 2.0 miles of 8-inch line, 6.8 miles of 6-inch line, and 15.3 miles of 4-inch line.

Initially, 18 existing wells will be connected to this system. Additional wells, 13 being presently proposed, will be attached as they are completed.

The total estimated cost of the project, including interest and overhead, is $1,712,500 which will be financed by Northern out of cash on hand and cash generated from operations.

The facilities will be used for the purpose of enabling Northern to take natural gas from the Glick Field which it proposes to purchase from various producers therein as hereinafter described.

The total recoverable gas reserves underlying this field are estimated to be 271,357 MMcf at 14.73 psia. Of this amount, 221,232 MMcf are presently dedicated to Northern, with the remainder anticipated to be available to Northern in the future. This gas will be used by Northern to supplement its total gas supply, to enable it to maintain adequate reserves for the future in accordance with company policy, and will be available to supply the existing and future requirements of its customers.

Each of the following named applicants proposes to sell natural gas in interstate commerce to Northern for resale. Basic information concerning these applications is tabulated below.

Docket No.	Date filed	Applicant and address	Contract date	FPC Gas rate schedule No.
G-17973	[1] 3-3-59	Gulf Oil Corp., P.O. Box 2097, Denver, Colo.	1-5-59	165
G-18179	3-27-59	Jacqueline Anderson, 930 Petroleum Club Bldg., Denver 2, Colo.	1-26-59	1
G-18181	3-27-59	Shell Oil Co., 50 West 50th St., New York 20, N.Y.	2-4-59	None
G-18192	5-8-59	Barbara Oil Co., 33 South Clark St., Chicago 3, Ill.	2-2-59	5
G-18552	5-18-59	Pickrell Drilling Co., Estate of Lloyd R. Pickrell, deceased, Cecil Burton, C. W. Sebits, Gerald W. Pike, H. A. Mayor, Southwest Production, Inc., C. J. Slawson, and Joe S. Johnson, care of Pickrell Drilling Co., 705 Fourth National Bank Building, Wichita 2, Kans.	[2] 2-2-59	1

[1] As amended 9-21-59.
[2] As ratified 2-10-59.

These producer applicants have entered into contracts with Northern as indicated above, providing for the sale and delivery of gas produced from the aforesaid Glick Field, whereunder said applicants have dedicated to the performance thereof all of the natural gas, subject to certain reservations, produced from and attributable to their respective interests in certain oil and gas leases down to the top of the Viola formation. The contracts provide for the sale of 1,000 Btu gas at a base initial price of 20 cents per Mcf at 14.65 psia commencing with date of initial delivery through June 30, 1964.

These related matters should be heard on a consolidated record and disposed of under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 19, 1959, at 10:00 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 12, 1959.

JOSEPH H. GUTRIDE,
Secretary.

[F. R. Doc. 59-9088; Filed, Oct. 27, 1959; 8:46 a.m.]

[Docket No. G-15536]

MASSEY OIL & GAS CO.

Notice of Application and Date of Hearing

OCTOBER 22, 1959.

Take notice that Massey Oil & Gas Company (Applicant), a partnership organized under the laws of the State of West Virginia, with a principal place of business in Sand Fork, West Virginia, filed an application in Docket No. G-15536 pursuant to section 7(b) of the Natural Gas Act, for authorization to abandon service to Hope Natural Gas Company (Hope) from the Glenville District of Gilmer County, West Virginia. The service is covered by a sales contract dated August 30, 1954, on file as Massey Oil & Gas Company FPC Gas Rate Schedule No. 2.

Applicant was authorized to render service to Hope under the aforesaid contract on February 21, 1955, in Docket No. G-3905, all as more fully described in the application on file with the Commission, and open to public inspection.

Applicant states in support of the proposed abandonment, that the volume of natural gas available for delivery under the contract has declined to the point where it is no longer economically feasible to continue the operation only 42 Mcf of gas having been delivered to Hope during the last month of operation. Applicant submitted as Exhibit "A" to the subject application an agreement dated June 25, 1958, providing for the cancellation of the contract involved herein.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 30, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street, NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 19, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9089; Filed, Oct. 27, 1959; 8:46 a.m.]

[Docket No. G-15100]

P. O. BURGY DRILLING AND PRODUCING CO.

Notice of Application and Date of Hearing

OCTOBER 22, 1959.

P. O. Burgy Drilling and Producing Company (Applicant), a partnership organized under the laws of the State of West Virginia, with a principal place of business in Cornwallis, West Virginia, filed an application on May 12, 1958, in Docket No. G-15100, pursuant to section 7(b) of the Natural Gas Act for authorization to abandon service to Hope Natural Gas Company (Hope) from the Cornwallis Field, Grant District, Ritchie County, West Virginia, covered by a contract dated January 10, 1955, all as more fully described in the application on file with the Commission, and open to public inspection.

Applicant states in support of the proposed abandonment, that the volume of gas available for delivery under the contract has declined to the point where it is no longer economically feasible to continue the operation and that, during the last month of operation, only 8 Mcf of gas was delivered to Hope.

As a part of the subject application, Applicant submitted a cancellation agreement dated April 19, 1958, between Applicant and Hope providing for the

termination of the aforementioned contract.

Applicant was authorized on May 6, 1955, in Docket No. G-8387 to render the service now proposed to be abandoned.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 19, 1959, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 16, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-9090; Filed, Oct. 27, 1959; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 293]

MOTOR CARRIER APPLICATIONS

OCTOBER 23, 1959.

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers or brokers under sections 206, 209, and 211 of the Interstate Commerce Act and certain other proceedings with respect thereto.

All hearings will be called at 9:30 o'clock a.m., United States standard time (or 9:30 o'clock a.m., local daylight saving time), unless otherwise specified.

APPLICATIONS ASSIGNED FOR ORAL HEARING OR PRE-HEARING CONFERENCE

MOTOR CARRIERS OF PROPERTY

No. MC 200 (Sub No. 201), filed October 19, 1959. Applicant: RISS & COMPANY, INC., Ninth and Burlington, North Kansas City, Mo. Applicant's attorney: Ivan E. Moody, Ninth and Burlington, North Kansas City, Mo. Authority sought to operate as a *common carrier,* by motor vehicle, transporting: General commodities, except livestock, serving ballistic missiles testing and launching sites and supply points therefor within 60 miles of Denver, Colo., as off-route points in connection with applicant's authorized regular route operations to and from Denver, Colo. Applicant is authorized to conduct operations in Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia, and the District of Columbia.

HEARING: November 16, 1959, at the New Customs House, Denver, Colo., before Joint Board No. 126.

No. MC 263 (Sub No. 107), filed October 14, 1959. Applicant: GARRETT FREIGHTLINES, INC., 205 Pole Line Road, Pocatello, Idaho. Applicant's attorney: Maurice H. Greene, P.O. Box 1554, Boise, Idaho. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities,* except commodities in bulk, commodities requiring special equipment, those of unusual value, household goods as defined by the Commission, Class A and B explosives, and commodities injurious or contaminating to other lading, serving ballistic missiles testing and launching sites, and supply points therefor, within a 60-mile radius of Denver, Colo., as off-route points in connection with applicant's authorized regular route operations between Denver and Grand Junction, Colo. Applicant is authorized to conduct operations in Washington, Idaho, Montana, California, Nevada, Oregon, Wyoming, Utah, Arizona, New Mexico, and Colorado.

HEARING: November 16, 1959, at the New Customs House, Denver, Colo., before Joint Board No. 126.

No. MC 19201 (Sub No. 111), filed October 6, 1959. Applicant: PENNSYLVANIA TRUCK LINES, INC., 110 South Main Street, Pittsburgh, Pa. Applicant's attorney: Robert H. Griswold, Commerce Building, P.O. Box 432, Harrisburg, Pa. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *General commodities, including commodities in bulk and those requiring special equipment,* but excluding Class A and B explosives and household goods as defined by the Commission, in service auxiliary to, or supplemental of rail service of The Pennsylvania Railroad, (1) between junction U.S. Highway 40 and Ohio Highway 56, west of Lafayette, Ohio, and junction Ohio Highway 56 and Ohio Highway 29, serving no intermediate points, and serving said junctions for purposes of joinder only, from junction U.S. Highway 40 and Ohio Highway 56 over Ohio Highway 56 to junction Ohio Highway 29 and return over the same route; (2) between Springfield, Ohio, and South Charleston, Ohio, serving no intermediate points, from Springfield over Ohio Highway 70 to South Charleston, and return over the same route; (3) between Dayton, Ohio and junction U.S. Highway 25 and U.S. Highway 36, immediately east of Piqua, Ohio, serving no intermediate points, and serving said junction for purposes of joinder only, from Dayton over U.S. Highway 25 to junction U.S. Highway 36, immediately east of Piqua, Ohio, and return over the same route; (4) between Hamilton, Ohio, and Lebanon, Ohio, serving no intermediate points, from Hamilton over Ohio Highway 4 to junction Ohio Highway 63, thence over Ohio Highway 63 to Lebanon, and return over the same route; (5) between Eaton, Ohio and junction U.S. Highway 127 and U.S. Highway 40, serving no intermediate points and serving said junction for purposes of joinder only, from Eaton over U.S. Highway 127 to junction U.S. Highway 40, and return over the same route; (6) between New Madison, Ohio and Eldorado, Ohio, serving no intermediate points, from New Madison over Ohio Highway 726 to Eldorado and return over the same route. Applicant is authorized to conduct operations in Indiana, Ohio, Pennsylvania, and West Virginia.

NOTE: Common control and dual operations may be involved.

HEARING: December 7, 1959, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 17.

No. MC 20783 (Sub No. 48), filed October 7, 1959. Applicant: TOMPKINS MOTOR LINES, INC., 411 Mulberry Street, Nashville, Tenn. Applicant's attorney: Carl L. Steiner, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Frozen citrus fruit juice* and *pineapple juice concentrate mix; chilled citrus juice; citrus puree; chilled fresh citrus fruit juices; chilled fresh fruit salads; frozen citrus juice concentrates; frozen citrus fruit juices; frozen pineapple juice concentrates; frozen citrus fruit sections; frozen limeade concentrate, frozen lemonade concentrate,* or *frozen lemonade and limeade concentrates, mixed, with or without sugar added; frozen fruit salad, frozen fruit juice, artificial or natural, frozen vegetable juice, frozen malt or milk and chocolate or cocoa compounds, beverage preparation; frozen citrus fruit pulp;* from points in Florida to points in North Dakota and South Dakota. Applicant is authorized to conduct operations in Tennessee, Georgia, North Carolina, South Carolina, Alabama, Florida, and Nebraska.

HEARING: November 30, 1959, at the U.S. Court Rooms, Tampa, Fla., before Examiner Lucian A. Jackson.

No. MC 23939 (Sub No. 90) (REPUBLICATION), filed August 25, 1959, published at Page 7663, September 23, 1959 issue of FEDERAL REGISTER. Applicant: ASBURY TRANSPORTATION CO., a corporation, 2222 East 38th Street, Los Angeles 58, Calif. Applicant's attorney: E. B. Evans, 718 Symes Building, Denver 2, Colo. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cryogenic liquids* and *liquefied gases* (except liquefied petroleum products), in shipper-owned specially designed semi-trailers, loaded or empty, (1) between points in California; and (2) between points in California, on the one hand, and, on the other, points in Arizona, Colorado, Ne-

braska, New Mexico, Nevada, and Wyoming. Applicant is authorized to conduct operations in Washington, Idaho, Oregon, Montana, Colorado, California, Utah, Wyoming, and Nevada.

NOTE: The purpose of this republication is to include the State of Wyoming.

HEARING: Remains as assigned November 13, 1959, at the New Customs House, Denver, Colo., before Examiner Harold W. Angle.

No. MC 29647 (Sub No. 29), filed October 13, 1959. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., 552 Jefferson Street, Hagerstown, Md. Applicant's attorney: Spencer T. Money, Mills Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except livestock, dangerous explosives, coin or currency, household goods, as defined in *Practices of Motor Common Carrier of Household Goods*, 17 M.C.C. 467, coal, sand, crushed stone, and lime. (1) Between Emmitsburg, Md., and Harrisburg, Pa.; from Emmitsburg over U.S. Highway 15 to Harrisburg, and return over the same route, serving no intermediate points; (2) between Shepherdstown, Pa., and Hogestown, Pa., from Shepherdstown over Pennsylvania Highway 114 to Hogestown, and return over the same route, serving no intermediate points; and (3) between Dillsburg, Pa., and Carlisle, Pa.: from Dillsburg over Pennsylvania Highway 74 to Carlisle, and return over the same route serving no intermediate points, as alternate routes for operating convenience only, in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Delaware, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia.

HEARING: December 1, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Walter R. Lee.

No. MC 39300 (Sub No. 3), (CORRECTION), filed September 21, 1959, published FEDERAL REGISTER issue of October 14, 1959. Applicant: MIDDLE STATES MOTOR FREIGHT, INC., 5723 Este Avenue, Cincinnati 32, Ohio. Applicant's attorney: Jack B. Josselson, Atlas Bank Building, Cincinnati 2, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *Liquid and dry commodities*, of the kind presently authorized to be transported by applicant, in collapsible tanks or bins, including but not limited to those known as "Sealdtanks" or "Sealdbins", or the equivalent thereof, over all routes and between all points applicant is authorized to serve in Certificate No. MC 39300, in Ohio, Illinois, Indiana, and Kentucky.

NOTE: Previous publication erroneously omitted the State of Kentucky.

PRE-HEARING CONFERENCE: Reassigned to October 26, 1959, at the offices of the Interstate Commerce Commission, Washington, D.C., Commissioner Rupert L. Murphy, presiding.

No. MC 52974 (Sub No. 8), filed October 14, 1959. Applicant: THE JACOBS TRANSFER COMPANY, INC., 61 Pierce Street NE., Washington 2, D.C. Applicant's attorney: Hugh M. Steinberger, 61 Pierce Street NE., Jacobs Building, Washington 2, D.C. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, for persons who operate stores, (1) between Washington, D.C., and points in Stafford, Fauquier, and Spotsylvania Counties, Va., and Baltimore City and points in Baltimore, Frederick, and Carroll Counties, Md.; and (2) from points in Saint Mary's, Charles, Calvert, Howard, Anne Arundel, Montgomery, and Prince Georges Counties, Md., and from points in Fairfax, Prince William, and Loudoun Counties, Va., to points in the Washington, D.C., Commercial Zone, as defined by the Commission. Applicant is authorized to conduct operations in Maryland, Virginia, and the District of Columbia.

NOTE: Applicant states it is seeking to have removed the restriction in MC 52974 (Sub No. 2), under which transportation from the above-designated counties to points in the Washington, D.C., Commercial Zone is restricted to returned, rejected, or undelivered shipments. A proceeding has been instituted under section 212(c) in No. MC 52974 (Sub No. 7) to determine whether applicant's status is that of a common or contract carrier.

HEARING: December 15, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Joint Board No. 68.

No. MC 59150 (Sub No. 10), filed October 8, 1959. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Box 47, Station G, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber handling* and *processing outfits* and *dry kiln outfits*, and *parts* and *equipment* moving therewith, from Jacksonville, Fla., to points in Texas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Tennessee, Arkansas, Oklahoma, Kansas, Missouri, Kentucky, West Virginia, Virginia, Nebraska, Iowa, Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

HEARING: December 3, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 59235 (Sub No. 12), filed October 7, 1959. Applicant: J. H. NOWINSKY TRUCKING COMPANY, a corporation, Hatley, Wis. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago 41, Ill. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and siding materials, including paper*, building *paper*, felt *paper and felt paper roofing and sheathing, roof putty, asbestos putty, roofing brackets, roofing, composition, prepared roofing, roofing tape, shingles, siding*, and *roofing and siding materials and supplies* used in application, from Chicago, Ill., and points in the Chicago, Ill., Commercial Zone, as defined by the Commission, to points in Wisconsin within 200 miles of Madison located on, north, and East of U.S. Highway 12. Applicant is authorized to conduct operations in Illinois and Wisconsin.

HEARING: December 7, 1959, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 17.

No. MC 75651 (Sub No. 48), filed October 2, 1959. Applicant: R. C. MOTOR LINES, INC., 2500 Laura Street, Jacksonville, Fla. Applicant's attorney: Milton E. Diehl, 1382 National Press Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Class A, B, and C explosives, ammunition* not included within the commodities clasified by the Commission as Class A, B, and C explosives, *component parts of ammunition*, and *empty containers*, between points in Duval and Clay Counties, Fla., on the one hand, and, on the other, points in Berkeley and Charleston Counties, S.C.

NOTE: Common control may be involved.

HEARING: December 4, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 354, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 145), filed August 19, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Magnesium oxide*, in bulk, or in bags; (b) *Calcined and dead burned magnesite, magnesium carbonate, calcium oxide, calcium hydroxide* and *magnesium hydroxide* in bulk and in packages; and (c) *Magnesium hydroxide slurry or sludge*, in bulk, in tank vehicles, from Port St. Joe, Fla., and points within 15 miles thereof, to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

HEARING: December 8, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 146), filed August 21, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils* and *blends thereof*, in bulk, in tank vehicles, (1) from Pensacola, Fla. to Savannah, Ga., and (2) from Savannah,

Ga. to points in Florida, Alabama, Tennessee, Kentucky, South Carolina, North Carolina, Maryland, and Virginia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 9, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 147), filed August 21, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville, 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Pine oil, turpentine,* and *pinene,* in bulk, in tank vehicles, from Jacksonville, Fla., to Savannah, Ga. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 14, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 149), filed August 27, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Phosphate rock,* crushed, ground or pulverized, in bulk, from points in Decatur County, Ga., to points in Georgia, Dothan, Ala., and Cottondale, Fla. Applicant is authorized to conduct operations in Florida, Georgia, North Carolina, South Carolina, Tennessee, and Alabama.

HEARING: December 11, 1959, at Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Allen W. Hagerty.

No. MC 103378 (Sub No. 150), filed September 1, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: (a) *Crude sulphate turpentine,* in bulk, in tank vehicles, from Catawba, S.C., to Jacksonville, Fla.; and (b) *Black liquor soap skimmings,* in bulk, in tank vehicles, from Catawba, S.C., to Savannah, Ga. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 10, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 354, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 152), filed September 11, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Inedible animal fats,* in bulk, in tank vehicles, from Doctors Inlet, Fla., to points in Georgia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee.

HEARING: December 14, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 153), filed September 21, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Salt cake,* in bulk, from Kings Bay Marina Terminal, Camden County, Ga., to points in Florida. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 14, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 154), filed September 21, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum products,* in bulk, in tank vehicles, from Atlanta, Ga., to points in Florida. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 4, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 155), filed September 29, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Sulphuric acid,* in bulk, in tank vehicles, from Copperhill, Tenn., to points in Florida. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 15, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 157), filed October 1, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Naval stores,* in bulk, in tank vehicles, from Jacksonville, Fla., to points in Georgia. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and West Virginia.

HEARING: December 15, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 103378 (Sub No. 159), filed October 5, 1959. Applicant: PETROLEUM CARRIER CORPORATION, 369 Margaret Street, Jacksonville, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Molasses,* in bulk, in tank vehicles, from points in Florida, to Jacksonville, Fla., and (2) *fish oil* and *fish solubles,* in bulk in tank vehicles, from points in Florida, to points in Georgia, South Carolina, North Carolina, and Alabama. Applicant is authorized to conduct operations in Florida, Georgia, South Carolina, North Carolina, Alabama, Tennessee, and West Virginia.

HEARING: December 15, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 103926 (Sub No. 9), filed July 13, 1959. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 2463 Station D, 3881 Bankhead Highway, Atlanta 18, Ga. Applicant's attorney: R. J. Reynolds, 1403 Citizens & Southern Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Contractors' machinery* and *equipment,* when the same are shipped from, to or for use by a person or party other than a private contractor between points in Georgia, on the one hand, and, on the other, points in Alabama, Florida, North Carolina, South Carolina, and Tennessee. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, South Carolina, and Tennessee.

HEARING: December 9, 1959, at 630 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 103993 (Sub No. 123), filed September 28, 1959. Applicant: MORGAN DRIVE-AWAY, INC., 500–509 Equity Building, Elkhart, Ind. Applicant's attorney: John E. Lesow, 3737 North Meridan Street, Indianapolis 8, Ind. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Trailers,* designed to be drawn by passenger automobiles, in initial movements, in truck-away service, from all points in Florida (except from Clearwater, Lake City, Boca Raton, Jasper, Ocala, Sebring, and Tampa, Fla.), to all points in the United States (except to Detroit, Flint, and Mt. Clemens, Mich.). Applicant is authorized to conduct operations throughout the United States.

HEARING: December 1, 1959, at the U.S. Court Rooms, Tampa, Fla., before Examiner Lucian A. Jackson.

No. MC 104004 (Sub No. 147), filed October 5, 1959. Applicant: ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *General Commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, serving, Bagdad, Pa., as an off-route point in connection with applicant's authorized regular route operations. Applicant is authorized to conduct operations in Connecticut, Delaware, Georgia, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, Massachusetts, Rhode Island, and the District of Columbia.

HEARING: December 2, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner James H. Gaffney.

No. MC 105553 (Sub No. 27), filed October 12, 1959. Applicant: C. J. SIMPSON TRUCKING COMPANY, INC., P.O. Box 4096, 4224 West Illinois Street, Dallas Tex. Applicant's attorney: James W. Wrape, 2111 Sterick Building, Memphis, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: (1) *Machinery, equipment, materials* and *supplies* used in, or in connection with the exploration, discovery, development, production, refining, manufacturing, processing, storage transmission, maintenance, construction, operation, repair, servicing, and distribution of (a) natural gas and petroleum and their products and byproducts; (b) water; (c) sulphur and its products; (2) *Machinery, equipment, materials* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance and dismantling of all pipelines, including the stringing and picking up thereof; (3) *Commodities*, the transportation of which because of size or weight requires the use of special equipment, and of *related machinery parts* and *related contractors' materials and supplies* when their transportation is incidental to the transportation by applicant of commodities which by reason of size or weight require special equipment; (4) (a) *Road building, earth moving and excavating machinery, equipment, materials and attachments*, (b) *Lumber and mining machinery and equipment*, (c) *Tractors* (other than conventional truck-tractors designed for highway operations), (d) *Parts* of commodities described in (a) and (c) above; (5) *Agricultural machinery;* (6) *Contractors' equipment, machinery, materials, supplies* and *related parts;* (7) *Equipment, machinery, materials, supplies* and *related parts thereof*, used in or in connection with mining operations; (8) *Furs* and *hides*, all kinds, (1) between points in the United States, including the District of Columbia, but excluding Alaska, on the one hand, and, on the other, points in Alaska, and (2) between points in Alaska. Applicant is authorized to conduct operations in Tennessee, Arkansas, Mississippi, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Alabama, Georgia, Florida, Colorado, Wyoming, Utah, and Montana.

HEARING: December 2, 1959, at the Baker Hotel, Dallas, Tex., before Examiner Frank R. Saltzman, in accordance with the procedure outlined for handling other cases assigned for hearing at the same time and place on a consolidated record, as shown in the FEDERAL REGISTER of September 23, 1959.

No. MC 105881 (Sub No. 29), filed September 21, 1959. Applicant: M. R. R. TRUCKING COMPANY, 715 N. Ferdon Boulevard, P.O. Box 517, Crestview, Fla. Applicant's attorney: Norman J. Bolinger, Suite 713–17 Professional Building, Jacksonville 3, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Helium*, in government owned tank trailers moving on government bills of lading and *empty government owned tank trailers* moving on government bills of lading, between Eglin Air Force Base and all of its auxiliary and supporting fields in points in Walton, Okaloosa, and Santa Rosa Counties, Fla., on the one hand, and, on the other, the United States Naval Air Station at or near Glynco, Ga. Applicant is authorized to conduct operations in Alabama, Georgia, and Florida.

HEARING: December 11, 1959, at the Florida Railroad Commission, Tallahassee, Fla., before Joint Board No. 64, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 106398 (Sub No. 136), filed October 13, 1959. Applicant: NATIONAL TRAILER CONVOY, INC., 1916 North Sheridan Road, Box 8096, Dawson Station, Tulsa, Okla. Applicant's attorney: Harold G. Hernly, 1624 Eye Street NW., Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from points in Florida, except Sebring, Tampa, Clearwater, Lake City, Boca Rotan, Jasper, and Ocala, Fla., to points in the United States, including Alaska. Applicant is authorized to conduct operations throughout the United States.

HEARING: December 2, 1959, at the U.S. Court Rooms, Tampa, Fla., before Examiner Lucian A. Jackson.

No. MC 106407 (Sub No. 14), filed October 12, 1959. Applicant: T. E. MERCER TRUCKING CO., a Corporation, 920 North Main, Fort Worth, Tex. Applicant's attorney: Ewell H. Muse, Jr., 415 Perry Brooks Building, Austin, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials* and *supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of (a) natural gas, and petroleum and their products and byproducts, (b) water, and (c) sulphur and its products; (2) *Machinery, equipment, materials* and *supplies* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of all types and kinds of pipelines, including the stringing and picking up thereof; (3) *Logging and mining machinery, equipment, attachments and supplies;* (4) *Heavy machinery, parts* and *attachments;* (5) *Tractors*, other than conventional truck-tractors; (6) *Commodities*, the loading, unloading or transportation of which, because of size, weight or shape, require the use of special equipment, special rigging or special handling, and *parts* thereof when moving in connection therewith; (7) *Contractors' equipment* and *contractors' equipment attachments;* (8) *Road and bridge building machinery and equipment;* (9) *Construction machinery and equipment;* (10) *Furs*, in bulk; (11) *Road-building, earth-moving and excavating machinery, equipment, materials, and attachments;* and (12) *Agricultural machinery*, (a) between points in the United States, including the District of Columbia but excluding Alaska, on the one hand, and, on the other, points in Alaska, and (b) between points in Alaska. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Montana, New Mexico, Oklahoma, Tennessee, Texas, Utah, and Wyoming.

HEARING: December 2, 1959, at the Baker Hotel, Dallas, Tex., before Examiner Frank R. Saltzman, in accordance with the procedure outlined for handling other cases assigned for hearing at the same time and place on a consolidated record, as shown in the FEDERAL REGISTER of September 23, 1959.

No. MC 107107 (Sub No. 129), filed September 14, 1959. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, P.O. Box 65, Allapattah Station, Miami 42, Fla. Applicant's attorney: Frank B. Hand, Jr., 522 Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Texas to points in Florida. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: December 16, 1959, at U.S. Court Rooms, Tampa, Fla., before Examiner Allen W. Hagerty.

No. MC 107515 (Sub No. 331), filed August 26, 1959. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta, Ga. Applicant's attorney: Allan Watkins, 214–217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared dough*, from Charlotte, N.C., to points in South Carolina, Georgia, Alabama, Florida, and Tennessee. Applicant is

authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

NOTE: Dual operations under section 210 may be involved.

HEARING: November 30, 1959, at 690 West Peachtree Street NW., Atlanta, Ga., beore Examiner Allen W. Hagerty.

No. MC 107515 (Sub No. 332), filed September 21, 1959. Applicant: REFRIGERATED TRANSPORT CO., INC., 290 University Avenue SW., Atlanta 10, Ga. Applicant's attorney: Allan Watkins, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dessert cream compounds* and *dessert toppings*, from Oakland, San Francisco, and Gustine, Calif., to points in Georgia and North Carolina. Applicant is authorized to conduct operations in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and Wisconsin.

NOTE: Applicant states it proposes to traverse the States of Nevada, Arizona, New Mexico, Texas, Oklahoma, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama for operating convenience only. Dual authority under section 210 may be involved.

HEARING: November 30, 1959, at 680 West Peachtree Street, NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 107818 (Sub No. 23), filed August 27, 1959. Applicant: ELLA GREENSTEIN, doing business as GREENSTEIN TRUCKING COMPANY, Pompano Beach, Fla. Applicant's attorney: Martin Sack, 500 Atlantic National Bank Building, Jacksonville 2, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Egg cartons*, from Morris, Ill., to points in Georgia and Alabama. Applicant is authorized to conduct operations in Alabama, Arkansas, Connecticut, the District of Columbia, Florida, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and Wisconsin.

HEARING: December 1, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 111545 (Sub No. 39), filed September 2, 1959. Applicant: HOME TRANSPORTATION COMPANY, INC., 334 South Four Lane Highway, Marietta, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Tractors* (except tractors used for pulling highway trailers), (b) *tractors*, regardless of how they are equipped (except tractors used for pulling highway trailers), (c) *scrapers*, (d) *motor graders*, (e) *wagons*, (f) *engines*, (g) *generators*, (h) *engines and generators combined*, (i) *welders*, (j) *rollers*, road, and (2) *parts* for the above-named commodities, from Cedar Rapids, Iowa; Aurora, Joliet, Mossville, Peoria, Morton, Decatur, Deerfield, Springfield, and Harvey, Ill.; and Milwaukee, Wis., and points within five (5) miles of each of the aforementioned cities, to points in Alabama, Georgia, Florida, North Carolina, and South Carolina. Applicant is authorized to conduct operations in Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Kanas, Kentucky, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: December 3, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 113255 (Sub No. 18), (CORRECTION), filed August 10, 1959, published FEDERAL REGISTER issue of October 7, 1959. Applicant: MILK TRANSPORT, INC., P.O. Box 398, New Brighton, Minn. Applicant's attorney: Donald A. Morken, 1100 First National-Soo Line Building, Minneapolis 2, Minn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid wax*, in bulk, in tank vehicles, from Marcus Hook, Pa., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, and *rejected shipments* of the above-specified commodity on return. Applicant is authorized to conduct operations in Arkansas, Colorado, Florida, Illinois, Louisiana, Massachusetts, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, and Texas.

NOTE: Previous publication inadvertently omitted the destination state of South Dakota.

HEARING: Remains as assigned November 19, 1959, at the Federal Court Building, Marquette Avenue, South and Third Streets, Minneapolis, Minn., before Examiner Donald R. Sutherland.

No. MC 113336 (Sub No. 29), filed October 5, 1959. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, East Second Street, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Natural latex*, in bulk, in tank vehicles, from Baltimore, Md., to Greenville, S.C. Applicant is authorized to conduct operations in Florida, Georgia, North Carolina, and South Carolina.

HEARING: December 2, 1959, at the Offices of the Interstate Commerce Commission, Washington, D.C., before Examiner Leo A. Riegel.

No. MC 113336 (Sub No. 30), filed October 5, 1959. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, East Second Street, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Magnesium oxide*, in bulk or in bags; (b) *calcined and dead burned magnesite, magnesium carbonite, calcium oxide, calcium hydroxide and magnesium hydroxiden*, in bulk and in packages and (c) *magnesium hydroxide slurry or sludge*, in bulk, in tank vehicles, from Port St. Joe, Fla., to points in Alabama, Arkansas, Georgia, Louisiana, Kentucky, Maryland, Mississippi, North Carolina, South Carolina, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. Applicant is authorized to conduct operations in Florida, Georgia, North Carolina, and South Carolina.

HEARING: December 8, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 113336 (Sub No. 31), filed October 5, 1959. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, East Second Street, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish oil and fish soluble*, in bulk, in tank vehicles, from points in Florida to points in Georgia, South Carolina, North Carolina, and Alabama. Applicant is authorized to conduct operations in Florida, Georgia, North Carolina, and South Carolina.

HEARING: December 7, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 113336 (Sub No. 32), filed October 12, 1959. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, East Second Street, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and blends thereof*, in bulk, in tank vehicles, (a) from Pensacola, Fla., to Savannah, Ga., and (b) from Savannah, Ga., to points in Florida, Alabama, Tennessee, Kentucky, South Carolina, North Carolina, Maryland, and Virginia. Applicant is authorized to conduct operations in Florida, Georgia, North Carolina, and South Carolina.

HEARING: December 9, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 113336 (Sub No. 33), filed October 12, 1959. Applicant: PETROLEUM TRANSIT COMPANY, INC., P.O. Box 921, East Second Street, Lumberton, N.C. Applicant's attorney: James E. Wilson, Perpetual Building, 1111 E Street NW., Washington 4, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Crude sulphate turpentine*, in bulk, in tank vehicles, from Catawba, S.C., to Jacksonville, Fla., and (b) *black liquor soap skimmings*, in bulk, in tank vehicles, from Catawba, S.C., to Savannah, Ga. Applicant is authorized

to conduct operations in Florida, Georgia, North Carolina, and South Carolina.

HEARING: December 10, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Joint Board No. 354, or, if the Joint Board waives its right to participate, before Examiner Lucian A. Jackson.

No. MC 115311 (Sub No. 20), filed September 18, 1959. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 894, Americus, Ga. Applicant's attorney: Paul M. Daniell, 214 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphate rock*, in bulk, from points in Decatur County, Ga., to points in Jackson County, Fla., and to points in Georgia and Alabama. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

HEARING: December 11, 1959, at Georgia Public Service Commission, 244 Washington Street SW., Atlanta, Ga., before Joint Board No. 99, or, if the Joint Board waives its right to participate, before Examiner Allen W. Hagerty.

No. MC 115442 (Sub No. 3), filed September 21, 1959. Applicant: BUTLER TRUCK LINES, INC., Eatonton Highway, Milledgeville, Ga. Applicant's attorney: T. Baldwin Martin, 503 First National Bank Building, Macon, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground oyster shells*, from High Point, Fla., to points in Georgia, Alabama, Tennessee, North Carolina, and South Carolina. Applicant is authorized to conduct operations in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Tennessee, and South Carolina.

HEARING: December 10, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 115594 (Sub No. 5), filed September 18, 1959. Applicant: HOLLOWAY MOTOR EXPRESS, INC., P.O. Box 1337, East Gadsden, Ala. Applicant's attorney: R. J. Reynolds, Jr., 1403 C & S Bank Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *printed forms*, from Topeka, Kans., to Gadsden, Ala., and *damaged and rejected shipments* of the above-specified commodities on return. Applicant is authorized to conduct operations over regular routes in Alabama and Georgia, and over irregular routes in Alabama, Georgia, Kansas, Missouri and Tennessee.

NOTE: Applicant indicates the proposed service is restricted to traffic interchanged at Gadsden, Ala., only.

HEARING: December 2, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 117344 (Sub No. 24), filed October 5, 1959. Applicant: THE MAXWELL CO., a Corporation, 2200 Glendale-Milford Road, Cincinnati 15, Ohio. Applicant's attorney: Herbert Baker, 50 West Broad Street, Columbus 15, Ohio. Authority sought to operate as a *common or contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, in tank vehicles, from Dayton, Ohio, to points in Kentucky, except Louisville, Ky., and to points in the Louisville, Ky., Commercial Zone, as defined by the Commission, and *empty containers or other such incidental facilities* (not specified) used in transporting the above specified commodities on return.

NOTE: Applicant has pending contract carrier authority under Permit No. MC 50404 and Subs thereunder. A proceeding has been instituted under section 212(c) in No. MC 50404 (Sub No. 55) to determine whether applicant's status is that of a common or contract carrier. Section 210 (dual authority) may be involved.

HEARING: November 30, 1959, at the New Post Office Building, Columbus, Ohio, before Joint Board No. 208.

No. MC 117718 (Sub No. 2) (REPUBLICATION), filed November 21, 1958, published FEDERAL REGISTER, issue of January 14, 1959. Applicant: GLENN PENN, doing business as PENN TRUCKING COMPANY, 625 North Street, Greenfield, Ohio. Applicant's attorney: Kline L. Roberts, 150 East Broad Street, Columbus 15, Ohio. By application filed November 21, 1958, published in the FEDERAL REGISTER, issue of January 14, 1959, applicant sought a certificate of public convenience and necessity authorizing operations, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of: *dressed hogs* and *dressed cattle*, from Greenfield, Ohio, to certain named cities in Massachusetts, New York, Pennsylvania, New Jersey, and Virginia. Inadvertently applicant failed to include the destination point of Salem, Mass. At the hearing applicant was permitted to amend the application to include Salem, Mass., as a destination point. A report and order of division one, decided October 13, 1959, authorized the transportation, as a *common carrier*, of *dressed hogs*, from Greenfield, Ohio, to Boston and Salem, Mass., and Timberville and Smithfield, Va., and provided for the issuance of a Certificate, subject to certain conditions. The purpose of this republication is to advise that any interested person or persons who might have been prejudiced by the allowance of the amendment to include Salem, Mass., as a destination point, may, within thirty (30) days from the date of this republication in the FEDERAL REGISTER, file a petition for further hearing.

No. MC 117757 (Sub No. 1), filed September 24, 1959. Applicant: W. D. FRISBEE, doing business as FRISBEE MOTOR EXPRESS, Austell, Ga. Applicant's representative: Robert J. Fehskens, 4142 Shawnee Lane NE., Atlanta 19, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from New Orleans, La., Mobile, Ala., Tampa, Miami, Jacksonville and Port Everglades, Fla., Charleston, S.C., and Brunswick and Savannah, Ga., to Birmingham, Ala., Chattanooga, Nashville and Knoxville, Tenn., Central City, Louisville and Lexington, Ky., Atlanta and Columbus, Ga., and Greenville and Columbia, S.C.

HEARING: December 2, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 118974 (Sub No. 1), filed September 14, 1959. Applicant: RATH UNITIZED NAVIGATION, INC., 407 Plaza Building, Miami, Fla. Applicant's attorney: Frank B. Hand, Jr., 522 Transportation Building, Washington 6, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, including *household goods as defined by the Commission, commodities in bulk*, and *those requiring special equipment*, but excluding articles of unusual value and Class A and B explosives, between points in Miami, Fla., restricted to traffic having a prior or subsequent movement by water.

HEARING: December 17, 1959, at U.S. Court Rooms, Tampa, Fla., before Joint Board No. 205, or, if the Joint Board waives its right to participate, before Examiner Allen W. Hagerty.

No. MC 119163 (Sub No. 1), filed August 19, 1959. Applicant: MARINE TRANSIT, INC., Life & Casualty Tower, Nashville, Tenn. Applicant's attorney: Harold Seligman, 26th Floor, Life & Casualty Tower, Nashville 3, Tenn. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Boats* (not over 23 feet in length) loaded in special rack boat trailers, and *parts thereof* when accompanying the boats, (b) *trailers*, designed to transport boats, from points in Florida to points in the United States. *Empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, and *refused and damaged boats*, or trailers, on return.

NOTE: Service is proposed to the District of Columbia, but not to the State of Alaska.

HEARING: December 14, 1959, at U.S. Court Rooms, Tampa, Fla., before Examiner Allen W. Hagerty.

No. MC 119171, filed August 20, 1959. Applicant: J. B. WHITE, JR., doing business as WHITE GRAIN & POULTRY COMPANY, 265 North Erwin Street, Cartersville, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds*, in bags and bulk, between Cartersville, Ga., and points in South Carolina on and west of U.S. Highway 176, points in North Carolina on and west of U.S. Highway 25, points in Tennessee on and south and east of U.S. Highways 11 and 11-W, points in Alabama on and north of U.S. Highway 78, and those in Florida on and north of a line extending from St. Augustine along Florida Highway 207 to junction Florida Highway 100, thence along Florida Highway 100 to junction U.S. Highway 441, thence along U.S. Highway 441 to the Florida-Georgia State line. *Fertilizer*, in bags, between Lauderdale, Ala., and points in that part of Georgia bounded on the south by U.S. Highway 78 extending from the Georgia-Alabama State line to Atlanta, Ga., and on the east by U.S. Highway 19. *Rock and stone aggregates*, in bags, between Cartersville and McIntyre, Ga., and Gad-

sen, Florence, Sheffield, and Tuscumbia, Ala.

HEARING: December 1, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 119230, filed September 23, 1959. Applicant: SUPER TIRE SERVICE, INC., 2177 West Beaver Street, Jacksonville, Fla. Applicant's attorney: Sol H. Proctor, Suite 713–17 Professional Building, Jacksonville, Fla. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires* and tubes, between Utica, N.Y. and Jacksonville, Fla.

NOTE: Applicant states the above requested transportation will be performed for The Tire Mart, Inc.

HEARING: December 3, 1959, at the Mayflower Hotel, Jacksonville, Fla., before Examiner Lucian A. Jackson.

No. MC 119234, filed September 23, 1959. Applicant: BOATS TRANSPORT, INC., 1965 Buford Highway NW., Atlanta, Ga. Applicant's attorney: Paul M. Daniel, Suite 214–217 Grant Building, Atlanta 3, Ga. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

HEARING: December 7, 1959, at 680 West Peachtree Street NW., Atlanta, Ga., before Examiner Allen W. Hagerty.

No. MC 119255, filed October 14, 1959. Applicant: JOHN LOUIS KAZANOVA, doing business as KAZANOVA CARTAGE, 3201 South Elizabeth Street, Chicago, Ill. Applicant's attorney: David Axelrod, 39 South La Salle Street, Chicago 3, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, from Buffington, Ind., to points in Illinois on and north of Illinois Highway 17.

HEARING: December 7, 1959, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 21.

No. MC 119259, filed October 16, 1959. Applicant: HAROLD LUEDEMAN, doing business as HAROLD LUEDEMAN TRUCK SERVICE, Jacob, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over a regular route, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Jacob, Ill., and Bandana, Ky., from Jacob over unnumbered highway to junction Illinois Highway 3, thence over Illinois Highway 3 to Ware, Ill., thence over Illinois Highway 146 to Vienna, Ill., thence over U.S. Highway 45 to the Illinois-Kentucky State line, thence over Kentucky Highway 358 to Bandana, and return over the same route, serving all intermediate points on Kentucky Highway 358 in the State of Kentucky.

HEARING: December 8, 1959, in Room 852, U.S. Custom House, 610 South Canal Street, Chicago, Ill., before Joint Board No. 156.

No. MC 119263, filed October 19, 1959. Applicant: KENTON MEADOWS CONSTRUCTION CO., a Corporation, P.O. Box 518, Gassaway, W. Va. Applicant's attorney: Vincent V. Chasey, Charleston National Bank Building, Charleston, W. Va. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy construction and pipeline construction equipment and machinery*, and *gas and oil pipeline and compressor station equipment and machinery*, between points in New York, Indiana, Ohio, Pennsylvania, New Jersey, Kentucky, West Virginia, Maryland, Delaware, Virginia, Tennessee, North Carolina, South Carolina, Georgia, and Florida, and (2) *concrete pipe, concrete cribbing, concrete blocks, bars, castings, channels, forgings, reinforcing steel, wire mesh, concrete products* and *materials used in concrete products*, and *machinery* and *equipment for the fabrication of concrete products*, between Clarksburg, W. Va., and points in Ohio, Pennsylvania, and Maryland.

HEARING: November 19, 1959, at the City Council Chamber, City Hall, 501 Virginia Street, East, Charleston, W. Va., before Examiner Raymond V. Sar.

MOTOR CARRIER OF PASSENGERS

No. MC 1002 (Sub No. 14), filed October 14, 1959. Applicant: ASBURY PARK-NEW YORK TRANSIT CORPORATION, 275 Broadway, Keyport, N.J. Applicant's attorney: Edward W. Currie, 123 Main Street, Matawan, N.J. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers* and their baggage in the same vehicles with passengers, (1) Between Ocean Township and Oceanport, N.J.; from a point on applicant's existing route at the junction of Norwood Avenue and Poplar Avenue in Deal, via Norwood Avenue to the junction of Cedar Avenue in West Long Branch and Long Branch, N.J., from the junction of Norwood Avenue and Cedar Avenue via Cedar Avenue to the junction of Monmouth Road in West Long Branch, N.J., from the junction of Cedar Avenue and Monmouth Road via Monmouth Road to the junction of Eatontown Boulevard in Oceanport and Eatontown, N.J., a point on applicant's existing route, and return over the same routes, serving all intermediate points. (2) Between Red Bank and Shrewsbury and Garden State Parkway Interchange 109, Middletown, N.J.: from a point on applicant's existing route at the junction of Newman Springs Road and Broad Street in Red Bank and Shrewsbury, N.J., via Newman Springs Road to the junction of Garden State Parkway Interchange Road 109 in Middletown Township, N.J.; from the junction of Newman Springs Road and Garden State Parkway Interchange Road 109 via Garden State Parkway Interchange Road 109 to a point on applicant's existing route at Interchange 109, Middletown, N.J., on the Garden State Parkway and return over the same routes serving all intermediate points. In connection with the extension proposed in Paragraph 2 above it is requested that the applicant's existing restriction in Docket MC 1002, Sub 9, against serving points on the Garden State Parkway in Monmouth County be lifted to permit segmentation of the route proposed in Paragraph 2 at Garden State Parkway Interchange Road 109. (3) Between Red Bank and Shrewsbury and Lincroft, Middletown Township, N.J.; from a point on applicant's existing route at the junction of Newman Springs Road and Broad Street in Red Bank and Shrewsbury, N.J., via Newman Springs Road to the junction of Lincroft Road in Lincroft, Middletown Township, N.J., and return over the same routes serving all intermediate points. (4) Between Eatontown and Oceanport, N.J.; from a point on applicant's existing route at the junction of New Jersey Highway 35 and New Jersey Highway 36 at Locust Grove, Eatontown, N.J., via New Jersey Highway 36 to the junction of Oceanport Avenue in West Long Branch, N.J., and from the junction of Oceanport Avenue and New Jersey Highway 36 via Oceanport Avenue to a point on applicant's existing route at Oceanport, N.J., and return over the same routes, serving all intermediate points. (5) Between Eatontown and Long Branch, N.J.; from a point on applicant's existing route at the junction of New Jersey Highways 36 and 35 at Locust Grove, Eatontown, N.J., via New Jersey Highway 36 to the junction of Broadway in West Long Branch, N.J., and from the junction of Broadway and New Jersey Highway 36 via Broadway to a point on applicant's existing route at Long Branch, N.J., and return over the same routes serving all intermediate points. (6) Between Asbury Park and Red Bank, N.J.; from Asbury Avenue at a point on applicant's existing route at the Asbury Park and Neptune, N.J., Boundary via Asbury Avenue to the junction of New Jersey Highway 35 in Neptune and Ocean Townships, N.J.; from the junction of New Jersey Highway 35 and Asbury Avenue via New Jersey Highway 35 to the junction of County Highway 13, also known as the extension of Shrewsbury Avenue, at the Shrewsbury, New Shrewsbury and Eatontown, N.J., Municipal boundary lines; from the junction of New Jersey Highway 35 and County Highway 13 via County Highway 13 to the junction of Shrewsbury Avenue at the municipal boundaries of Shrewsbury, Shrewsbury Township, and New Shrewsbury, N.J.; from the junction of County Highway 13 and Shrewsbury Avenue via Shrewsbury Avenue to a point on applicant's existing route at Red Bank, N.J., and return over the same routes serving all intermediate points. (7) Between Asbury Park and Garden State Parkway Interchange 102, and New Shrewsbury, N.J.; from a point on applicant's existing route at Asbury Avenue at the Asbury Park and Neptune, N.J., Boundary via Asbury Avenue to the junction of Garden State Parkway Interchange Road 102; from the junction of Asbury Avenue and Garden State Parkway Interchange Road 102 via Garden State Parkway Interchange Road 102 to a point on applicant's existing

route at Interchange 102, New Shrewsbury, N.J., on the Garden State Parkway and return over the same routes, serving all intermediate points. In connection with the extension proposed in Paragraph No. 7 above, it is requested that the applicant's existing restriction in Docket MC 1002, Sub 9, against serving points on the Garden State Parkway in Monmouth County be lifted to permit segmentation of the route proposed in Paragraph 7 at Garden State Parkway Interchange Road 102. Applicant is authorized to conduct operations in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, and Virginia.

NOTE: Common control may be involved.

HEARING: December 7, 1959, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

No. MC 3705 (Sub No. 20), filed October 16, 1959. Applicant: WESTWOOD TRANSPORTATION LINES, INC., 149 Liberty Street, Little Ferry, N.J. Applicant's attorney: Robert E. Goldstein, 24 West 40th Street, New York 18, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, between Hackensack, N.J., and River Edge, N.J., from the Hackensack-River Edge boundary line on Main Street, along Main Street in River Edge to the junction of New Jersey Highway 4, thence along New Jersey Highway 4 to Hackensack, thence along New Jersey Highway 4 to the junction of Hackensack Avenue Ramp, thence along Hackensack Avenue Ramp to the junction of Hackensack Avenue, thence along Hackensack Avenue to Bloomingdale Shopping Center, and return from Bloomingdale Shopping Center in Hackensack, along Hackensack Avenue to the junction of New Jersey Highway 4 Ramp, thence along New Jersey Highway 4 Ramp to the junction of New Jersey Highway 4 to River Edge, thence along New Jersey Highway 4 to the junction of Johnson Avenue, thence along Johnson Avenue to the junction of Grand Avenue, thence along Grand Avenue to the junction of Kinderkamack Road, thence along Kinderkamack Road to Hackensack, thence along Kinderkamack Road to the junction of Jefferson Street, thence along Jefferson Street to the junction of Main Street, and return over the same routes, serving all intermediate points. Applicant is authorized to conduct operations in New Jersey, New York, and Pennsylvania.

HEARING: November 13, 1959, at the New Jersey Board of Public Utility Commissioners, State Office Building, Raymond Boulevard, Newark, N.J., before Joint Board No. 119.

APPLICATIONS IN WHICH HANDLING WITHOUT HEARING IS REQUESTED

MOTOR CARRIERS OF PROPERTY

No. MC 1649 (Sub No. 67), filed October 16, 1959. Applicant: RAILWAY EXPRESS MOTOR TRANSPORT, INCORPORATED, 219 East 42d Street, New York 17, N.Y. (Local address: 101 Union Sta., Indianapolis, Ind.) Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Indianapolis, Ind., and Monticello, Ind.: from Indianapolis over U.S. Highway 31 to junction Indiana Highway 234, thence over Indiana Highway 234 to Carmel, Ind., thence over Indiana Highway 431 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction Indiana Highway 38, thence over Indiana Highway 38 to junction Indiana Highway 39, thence over Indiana Highway 39 to junction U.S. Highway 421 at Frankfort, Ind., and thence over U.S. Highway 421 to Monticello, and return over U.S. Highway 421 to Frankfort, thence over Indiana Highway 39 to Lebanon, Ind., and thence over U.S. Highway 52 to Indianapolis, serving the intermediate points of Carmel, Sheridan, Kirklin, Frankfort, Rossville, Delphi and Lebanon, Ind. RESTRICTION: The service to be performed by applicant will be limited to that which is auxiliary to or supplemental of express service, and the shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt. Applicant is authorized to conduct operations in Indiana.

No. MC 30319 (Sub No. 107), filed October 19, 1959. Applicant: SOUTHERN PACIFIC TRANSPORT COMPANY, a Texas Corporation, 810 N. San Jacinto Street, P.O. Box 4054, Houston, Tex. Applicant's attorney: Edwin N. Bell, Esperson Building, Houston 2, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, and commodities in bulk, (1) between Austin, Tex., and the site of the Nike Missile Base approximately six miles northwest of Austin, over Texas Farm Road 2244 and unnumbered road; (2) between Austin, Tex., and the site of the Nike Missile Base approximately twelve miles southeast of Austin, over U.S. Highway 183, Texas Farm Road 812 and unnumbered road, serving no intermediate points on the above specified routes. Applicant is authorized to conduct operations in Louisiana and Texas.

No. MC 66562 (Sub No. 1577), filed October 15, 1959. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, Law Department, Railway Express Agency, Incorporated (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between White River Junction, Vt., and Whitefield, N.H.: from White River Junction over U.S. Highway 5 to Wells River, Vt., thence over U.S. Highway 302 to Littleton, N.H., and thence over New Hampshire Highway 116 to Whitefield, and return over the same route, serving the intermediate points of Fairlee and Bradford, Vt., and Woodsville and Littleton, N.H. RESTRICTION: The service to be performed by applicant will be limited to that which is auxiliary to or supplemental of express service, and the shipments transported by applicant will be limited to those moving on a through bill of lading or express receipt. Applicant is authorized to conduct operations throughout the United States.

No. MC 66562 (Sub No. 1579), filed October 21, 1959. Applicant: RAILWAY EXPRESS AGENCY, INCORPORATED, 219 East 42d Street, New York 17, N.Y. Applicant's attorney: William H. Marx, 219 East 42d Street, New York 17, N.Y. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities, including Class A and B explosives*, moving in express service, between Pomeroy, Ohio and Kanauga, Ohio, from Pomeroy over Ohio Highway 7 to Kanauga, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points. Applicant is authorized to conduct operations throughout the United States.

NOTE: Applicant states the proposed service is an extension of applicant's existing authorized service under Certificate MC 66562 Sub 955 between Logan and Kanauga, Ohio and between Logan and Pomeroy, Ohio.

No. MC 111320 (Sub No. 41), filed October 15, 1959. Applicant: CURTIS KEAL TRANSPORT COMPANY, INC., East 54th Street and Cleveland Shoreway, Cleveland 14, Ohio. Applicant's representative: G. H. Dilla, 3350 Superior Avenue, Cleveland 14, Ohio. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Parts of new road building machinery and equipment* when moving separately from such units, from points in Lorain County, Ohio, to points in the United States, except those in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, and *returned and rejected shipments* of the above-specified commodities and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, from the destination points specified above to points in Lorain County, Ohio. Applicant is authorized to conduct operations throughout the United States.

No. MC 114004 (Sub No. 31), filed October 19, 1959. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobile by haulaway method in initial movement, from points in Otero County, Colo., except Fowler and La Junta, Colo., to points in the United States, including Alaska, and *damaged or refused trailers*, on return. Applicant is authorized to conduct operations throughout the United States.

No. MC 114004 (Sub No. 32), filed October 20, 1959. Applicant: CHANDLER TRAILER CONVOY, INC., 8828 New Benton Highway, Little Rock, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobile by haulaway method in initial movement, from points in Pulaski County, Ark., except Jacksonville, Ark., and Lamar, Colo., and points within 40 miles thereof to points in the United States including Alaska, except Flint, Detroit, and Mt. Clemens, Mich., and *damaged or refused trailers*, on return. Applicant is authorized to conduct operations throughout the United States.

No. MC 114194 (Sub No. 28), filed October 15, 1959. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Road, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products and accessories*, which are incidental to precast concrete products, except such commodities which because of size or weight, would require special equipment from Pacific, Mo., to points in Louisiana, Georgia, Alabama, South Dakota, Florida, Colorado, Wyoming, Utah, New Mexico, Arkansas, Kentucky, Tennessee, Texas, and Mississippi, and *empty containers or other such incidental facilities* (not specified) used in transporting the commodities specified in this application, and *refused or rejected shipments* of the above-specified commodities on return. Applicant is authorized to conduct operations in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE: Applicant requests that the following note be appended to the notice of filing of the application when published: "In the interest of saving the time and money of both the Commission, the applicant and the protestants, applicant requests that the Commission attach a note at the bottom of this publication in the FEDERAL REGISTER to the effect that heavy haulers do not have authority to handle this product and may refer to Docket No. MC 114194 (Sub. No. 10), in which applicant obtained same authority on same product to ten other states."

No. MC 118857 (Sub No. 1), filed October 19, 1959. Applicant: BERNARD W. KAVANAUGH AND CARROLL J. KAVANAUGH, doing business as KAVANAUGH BROTHERS, 2703 Dakota Avenue, South Sioux City, Nebr. Applicant's attorney: Wallace W. Huff, 314 Security Building, Sioux City 1, Iowa. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled automobiles, trucks, truck-tractors, and trailers*, in truckaway service, utilizing wrecker equipment only, from points in the United States, excluding Alaska, to points in the Sioux City, Iowa, Commercial Zone.

No. MC 119257, filed October 16, 1959. Applicant: ELMER KOLWEIER, Addieville, Ill. Applicant's attorney: Goldenbersh & Goldenhersh *and* Delmar O. Koebel, 406 Missouri Avenue, East St. Louis, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial feeds*, in bags and in bulk, from St. Louis, Mo., to Okawville, Ill., and *damaged or rejected shipments* of commercial feeds, on return movements.

PETITIONS

No. MC 10761 (Sub No. 21A), (PETITION FOR INTERPRETATION OF CERIFICATE), dated October 6, 1959. Petitioner: TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit 9, Mich. Petitioner's attorney: Howell Ellis, 520 Illinois Building, Indianapolis 4, Ind. By Certificate issued August 26, 1959, petitioner was authorized to conduct operations over certain alternate routes, between Weedsport, N.Y., and New York, N.Y., over certain specified highways. Pursuant to a proceeding in MC-F-4153, decided April 14, 1950, petitioner purchased certain operating rights of Superior Dispatch, Inc., including routes between New York City and Hartford, Conn., and other Connecticut points. Petitioner avers that as the result of a consultation with the District Director of the Interstate Commerce Commission at Chicago, Ill., in which he was advised that his interpretation of the extent of the restriction was correct and it did not apply to the Connecticut operations since they were not in existence or even contemplated at the time the restriction was made for a particular purpose, that he was warranted in using the latter route on shipments between Connecticut points and points in western New York. An Order of the Commission entered July 29, 1959, in Docket No. MC 10761 (Sub No. 58) denied that application, and the report entered in that proceeding concluded with the statement: "Operations now conducted by applicant contrary to this conclusion, should be discontinued". Petitioner prays the Commission (1) to grant this petition for interpretation of the certificate issued in MC-10761 (Sub No. 21A) and thereafter to make a determination of the transportation which lawfully may be performed by petitioner thereunder, (2) to hold a hearing in this matter for the purpose of receiving evidence to assist the Commission in properly making a determination of the matters involved herein, (3) to make an interpretation that the certificate issued in MC 10761 (Sub No. 21A) holding that the restriction therein applies only between points in western New York and New York City and points in New Jersey, as unquestionably was intended at the time said restriction was applied, (4) should the Commission find that, while the restriction imposed in the certificate originally was intended only to apply to operations between points in western New York and New York City and New Jersey, the language actually used is broader and covers operations not in existence when Sub No. 21A was considered, then and in that event to amend said certificate by inserting at the conclusion of said restriction the following words, to-wit: "This restriction applies only on traffic moving in interstate or foreign commerce between points in western New York on or west of a line beginning at Oswego, New York, and extending over New York Highway 57 to Syracuse, thence over U.S. Highway 11 to the New York-Pennsylvania State line, on the one hand, and, New York City and points in New Jersey, on the other," so that the restriction will in fact apply only as originally intended and in conformity with the evidence submitted in MC 10761 (Sub No. 21A), and (5) to hold in abeyance the instructions contained in the report of July 29, 1959, in MC 10761 (Sub No. 58), directing discontinuance by petitioner of certain use of the alternate routes involved herein until this petition has been heard and determined; and for all other relief necessary and proper in the premises. Any person or persons desiring to participate in this proceeding may file representations supporting or opposing the relief sought within 30 days after the date of this publication in the FEDERAL REGISTER.

No. MC 17226 (Sub No. 7) (PETITION FOR MODIFICATION OF PERMIT), dated October 8, 1959. Petitioner: FRUIT BELT MOTOR SERVICE, INC., 3909 West Harrison Street, Chicago 24, Ill. Petitioner's attorney: Beverley S. Simms, Barr Building, Washington, D.C. Certificate dated February 27, 1956, authorized operations as a motor *contract carrier*, in the transportation of: *Machinery and machinery parts, supplies and materials* used in the manufacturing, shipping, or operation of household laundry machines, between St. Joseph and Benton Harbor, Mich. on the one hand, and, on the other, Marion, Ohio. The shipper supporting the application which resulted in the above grant of authority was The Whirlpool Corporation, and the Permit when issued contained a restriction reading: "under special and individual contracts or agreements, with persons (as defined in sec. 203(a)(1) of the Interstate Commerce Act) who operate manufacturing plants the principal business of which is the production of household washing machines." The instant petition seeks modification of the Permit so as also to authorize service thereunder for Sears, Roebuck and Company in the transportation of *corrugated cartons* used in the shipping of household laundry machines from St. Joseph-Benton Harbor, Mich., to Marion, Ohio. Any person or persons desiring to participate in this proceeding may file representations supporting or opposing the allowance of the additional shipper within 30 days from the date of this publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carrier of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F 6778 (WESTERN EXPRESS—CONTROL AND MERGER—RICE TRUCK LINES), published in the December 19, 1957, issue of the FEDERAL REGISTER on page 10250. Order dated October 6, 1959. Transaction herein authorized was consummated on June 1, 1958, and a certificate was issued on July 2, 1958, to RICE TRUCK LINES in No. MC 105217 Sub 39 authorizing the transportation of *petroleum products*, in bulk, in tank vehicles, from Anacortes, Wash., and points within ten miles thereof to points in Montana, over irregular routes, that WESTERN EXPRESS, the surviving company in the merger, by petition tendered September 22, 1958, in that proceeding, requests the reissuance of said certificate in its name, and that the said petition has been accepted, filed, and granted on the date hereof as a petition for reopening and for supplemental authority, to become effective 35 days from the date of this publication, unless said order is stayed or otherwise postponed.

No. MC-F 7296 (CITY TRANSFER & STORAGE CO., ET AL.—CONTROL—INTERSTATE FREIGHT LINES, INC.), published in the September 2, 1959, issue of the FEDERAL REGISTER on page 7120. Supplemental application filed October 15, 1959, to show joinder of HULLIN TRANSFER COMPANY, 1016 First Avenue South, Seattle 4, Wash., as an additional party applicant, and for acquisition by EDWARD A. HULLIN, 3052 10th West, Seattle, Wash., of control of INTERSTATE FREIGHT LINES, INC., through the acquisition by HULLIN TRANSFER COMPANY. HULLIN TRANSFER COMPANY is authorized to operate as a *common carrier* in Washington.

No. MC-F 7330 (LYNDEN TRANSFER, INC.—PURCHASE—HAROLD F. KORTLEVER AND RAYMOND B. KORTLEVER), published in the October 7, 1959, issue of the FEDERAL REGISTER on page 8137. Supplemental application filed October 19, 1959, to show joinder of HENRY JANSEN, 620 Main Street, Lynden, Wash., as the person controlling vendee.

No. MC-F 7350. Authority sought for purchase by S & W TRUCKS, INC., P.O. Box 792, Lovington Highway, Hobbs, N. Mex., of the operating rights of FREEDA MAE HOLDER BROCK AND CARL LEROY HOLDER, BURNSIE HOLDER, FREEDA MAE HOLDER BROCK, TRUSTEE, doing business as C. L. HOLDER TRUCKING COMPANY, P.O. Box 525, Kermit, Tex., and for acquisition by LEROY SUMRULD, Lovington, N. Mex., of control of such rights through the purchase. Applicants' attorney: W. D. Girand, Box 1445, Hobbs, N. Mex. Operating rights sought to be transferred: *Oilfield and oil refinery machinery, materials, supplies, and equipment*, as a *common carrier* over irregular routes, between points in Eddy, Chaves, and Lea Counties, N. Mex., on the one hand, and, on the other, certain points in New Mexico and Texas; *oilfield supplies and equipment*, between points in New Mexico and Texas within 200 miles of Hobbs, N. Mex. Vendee is authorized to operate as a *common carrier* in New Mexico and Texas. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7351. Authority sought for control by THE EMERY TRANSPORTATION COMPANY, 7000 South Pulaski Road, Chicago 29, Ill., of LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., P.O. Box 310, Fremont, Nebr., and for acquisition by MIDWEST TRANSFER COMPANY OF ILLINOIS and, in turn, MILTON D. RATNER, both of Chicago, of control of LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., through the acquisition by THE EMERY TRANSPORTATION COMPANY. Applicant's attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago 3, Ill. Operating rights sought to be controlled: *General commodities*, except bank bills, coins, currency, deeds, drafts, notes, postage stamps, precious metals, or articles manufactured therefrom, precious stones, revenue stamps, valuable and negotiable papers, articles or papers of extra-ordinary value, tank-truck shipments, wild animals, dead animals, Class A and B explosives, coal, sand and gravel, and automobiles, as a *common carrier* over regular routes, between Omaha, Nebr., and Norfolk, Nebr., and between Norfolk, Nebr., and Lincoln, Nebr., serving all intermediate points; *commodities classified as dairy products in section B of the appendix to the report in Modification of Permits-Packing House Products*, 46 M.C.C. 23, over irregular routes, from certain points in Kansas to certain points in New Mexico, California and Arizona, and El Paso, Tex.; *frozen foods*, from Phoenix, Ariz., and Berkeley, Los Angeles, Oakland, San Francisco, San Jose, and Vallejo, Calif., to Aubuquerque, N. Mex., and from Berkeley, Oakland, San Francisco, San Jose, and Vallejo, Calif., to El Paso, Tex.; *butter substitutes* and *salad dressing*, from Berkeley, Oakland, San Francisco, San Jose, and Vallejo, Calif., to Albuquerque, N. Mex., and El Paso, Tex.; *potatoes*, from Los Angeles, Calif., and Phoenix, Ariz., to Albuquerque, N. Mex.; *the commodities* classified (A) as meats, meat products, and meat by-products, and (B) as dairy products, in the appendix to the report in *Modification of Permits-Packing House Products*, 46 M.C.C. 23, and *fresh and frozen fish*, and *fresh and frozen fruits and vegetables*, from Denver, Colo., to certain points in New Mexico and Fort Bliss, Tex., located approximately one mile north of El Paso, Tex.; *the commodities* classified as meats, meat products, and meat by-products and articles distributed by meat packing houses as defined in sections A and C of the appendix of the report in *Modification of Permits-Packing House Products*, 46 M.C.C. 23, from Topeka, Kans., to Trinidad, Colo., Albuquerque, N. Mex., Nogales, Phoenix, Tucson, and Yuma, Ariz., El Paso, Tex., Los Angeles, Oakland, San Diego, and San Francisco, Calif., points on U.S. Highway 85 between Trinidad, Colo., and Albuquerque, N. Mex., and points on U.S. Highway 66 between Albuquerque, N. Mex., and Kingman, Ariz., *meats, meat products, and meat by-products*, as defined in subdivision A of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 61 M.C.C. 766, from Chicago and Peoria, Ill., Mason City and Sioux City, Iowa, Kansas City, Kans., St. Paul, Minn., St. Joseph, Mo., Omaha, Nebr., and Huron, S. Dak., to Las Vegas and Reno, Nev., and to all points in California; *fresh and frozen foods*, from points in California to Kansas City and St. Joseph, Mo., points in Kansas, Iowa, and Nebraska, and certain points in Michigan, Wisconsin, Minnesota, Illinois and Indiana; *meats, meat products, and meat by-products*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Dubuque, Iowa, to points in California, and from Oklahoma City, Okla., to Salt Lake City, Utah, Las Vegas and Reno, Nev., Portland, Oreg., and Seattle and Tacoma, Wash.; *frozen fish sticks*, from Chicago, Ill., to points in California. THE EMERY TRANSPORTATION COMPANY is authorized to operate as a *common carrier* in Tennessee, Ohio, Kentucky, Illinois, Pennsylvania, Indiana, Wisconsin, Iowa, New York, New Jersey, West Virginia, Missouri, Michigan, Minnesota, Georgia, North Carolina, South Carolina, Virginia, Maryland, Louisiana, Massachusetts, Vermont, Delaware, Connecticut, Maine, New Hampshire, Rhode Island, Arkansas, Mississippi, Florida, Nebraska, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 7352. Authority sought for purchase by CONSOLIDATED EXPRESS CO., INC., Dudleytown Road, Bloomfield, Conn., of a portion of the operating rights of ARTHUR A. FOGARTY, INC., 211 Plainfield Street, Springfield, Mass., and for acquisition by CARL M. GIORDANO, 48 Knight Street, Wethersfield, Conn., of control of such rights through the purchase. Applicants' attorneys: Harris J. Klein, 280 Broadway, New York 7, N.Y., and S. John Mich, 228-11 Linden Boulevard, Cambria Heights, N.Y. Operating rights sought to be transferred: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier* over irregular routes, between New York, N.Y., and Newark, N.J., and points in New Jersey within 15 miles of Newark, on the one hand, and, on the other, points in Fairfield, Hartford, and New Haven Counties, Conn., and Hampden County, Mass. Vendee is authorized to operate as a *common carrier* in Massachusetts, New York, Connecticut, and New Jersey. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 7353. Authority sought for purchase by CONTINENTAL SOUTHERN LINES, INC., 425 Bolton Avenue, Alexandria, La., of a portion of the operating rights and certain property of MIDWEST BUSLINES, INC., 1800 Lincoln Avenue, Little Rock 5, Ark., and for acquisition by TRANSCONTINENTAL BUS SYSTEM, INC., 315 Continental

Avenue, Dallas, Tex., of control of such rights and property through the purchase. Applicants' attorney: Grove Stafford, Post Office Box 1711, Alexandria, La. Operating rights sought to be transferred: *Passengers and their baggage,* and *express, mail* and *newspapers* in the same vehicle with passengers, as a *common carrier* over regular routes between New Orleans, La., and Triumph, La., and between Triumph, La., and Venice, La., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Texas, Louisiana, Arkansas, Alabama, Mississippi, Tennessee, Missouri, Illinois, and Kentucky. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9103; Filed, Oct. 27, 1959; 8:48 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 23, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 35780: *Crude sulphur—Tioga, N.D., to Wisconsin points.* Filed by V. P. Brown, Agent (No. 1), for interested rail carriers. Rates on crude sulphur (brimstone), carloads from Tioga, N.D., to Eau Claire, Nekoosa, Port Edwards, Rhinelander, Rothschild, Wausau, and Wisconsin Rapids, Wis.

Grounds for relief: Market competition at destinations with Port Sulphur, La.

Tariff: Supplement 190 to Agent V. P. Brown's tariff I.C.C. No. 2.

FSA No. 35781: *Roofing and building material—Joplin, Mo., to the south.* Filed by Southwestern Freight Bureau, Agent (No. B-7668), for interested rail carriers. Rates on roofing and building material, and slate roofing, carloads, from Joplin, Mo., to destinations in southern territory, including Mississippi River crossings, Memphis, Tenn., and south.

Grounds for relief: Market competition with other southwestern producing points.

Tariff: Supplement 26 to Southwestern Freight Bureau, Agent, tariff I.C.C. 4264.

FSA No. 35782: *Rock salt from Morton, Ohio to eastern destinations.* Filed by O. E. Schultz, Agent (ER No. 2516), for interested rail carriers. Rates on salt, rock, in bulk, crushed or screened, in carloads from Morton, Ohio to points in Delaware, District of Columbia, Maine, Maryland, New Jersey, New York, Pennsylvania and Virginia.

Grounds for relief: Market competition with Retsof and Ludlowville, N.Y.

Tariff: Supplement 8 to Traffic Executive Association—Eastern Railroad tariff I.C.C. C-19 (Hinsch series).

FSA No. 35783: *Aluminum articles from Listerhill, Ala., to Chicago and McCook, Ill.* Filed by O. W. South, Jr., Agent (SFA No. A3856), for interested rail carriers. Rates on aluminum or aluminum articles, in carloads from Listerhill, Ala., to Chicago and McCook, Ill.

Grounds for relief: Barge competition.

Tariff: Supplement 8 to Southern Freight Association tariff I.C.C. S-67.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9102; Filed, Oct. 27, 1959; 8:48 a.m.]

[Notice 103]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 23, 1959.

The following letter-notices of proposals to operate over deviation routes for operating convenience only with service at intermediate points have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 211.1 (c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 263 (Deviation No. 2), GARRETT FREIGHTLINES, INC., P.O. Drawer 349, Pocatello, Idaho, filed October 12, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *general commodities,* with certain exceptions, over a deviation route as follows: from Bernalillo, N. Mex., over unnumbered highway to junction New Mexico Highway 422, thence over New Mexico Highway 422 to Albuquerque, N. Mex., and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Farmington, N. Mex., over New Mexico Highway 17 to junction New Mexico Highway 44, thence over New Mexico Highway 44 to junction U.S. Highway 85 at Bernalillo, N. Mex., and thence over U.S. Highway 85 to Albuquerque, and return over the same route.

No. MC 2202 (Deviation No. 6), ROADWAY EXPRESS INC., 147 Park Street, P.O. Box 471, Akron 9, Ohio, filed October 13, 1959. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: from Ghent, Ohio over newly constructed U.S. Highway 21 to Massillon, Ohio and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Ghent over County Highway 17 to Crystal Spring, Ohio, thence over Ohio Highway 236 to Massillon, and return over the same route.

No. MC 103185 (Deviation No. 4), DIXIE HIGHWAY EXPRESS INC., P.O. Box 631, Meridian, Miss., filed October 15, 1959. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: from Heflin, Ala., over Alabama Highway 46 to the Alabama-Georgia State line, thence over Georgia Highway 166 to Atlanta, Ga., and return over the same route, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between Heflin and Atlanta over U.S. Highway 78.

No. MC 109780 (Deviation No. 2), TRANSCONTINENTAL BUS SYSTEM, INC., P.O. Box 730, Wichita 1, Kans., filed October 14, 1959. Carrier proposes to operate as a *common carrier,* by motor vehicle of passengers, over three deviation routes, as follows: (A) from the junction of Old and New U.S. Highways 36, west of Hamilton, Mo., over New U.S. Highway 36 to the city limits of Hamilton; (B) from the city limits of Hamilton over New U.S. Highway 36 to its junction with Old U.S. Highway 36 east of Mooresville, Mo.; and (C) from junction of Old and New U.S. Highways 36 east of Mooresville over New U.S. Highway 36 to its junction with Old U.S. Highway 36 west of Utica, Mo.; and return over the same routes, for operating convenience only, serving no intermediate points. The notice indicates that the carrier is presently authorized to transport the same commodities between the various termini over Old U.S. Highway 36.

MOTOR CARRIER OF PASSENGERS

No. MC 2890 (Deviation No. 6), AMERICAN BUS LINES, INC., 1341 P Street, Lincoln 8, Nebr., filed October 12, 1959. Carrier proposes to operate as a *common carrier* by motor vehicle of *passengers,* over a deviation route as follows: from Chicago, Ill., over the Congress Street Expressway to junction Illinois East-West Tollway, thence over Illinois East-West Tollway to junction Farnsworth Avenue Interchange of said Tollway, thence over Farnsworth Avenue to Aurora, Ill., and return over the same route for operating convenience only, serving no intermediate points. The notice indicates that the carrier is

presently authorized to transport passengers over the following pertinent service routes: from Chicago over U.S. Highway 20 to junction Illinois Highway 42–A, thence over Illinois Highway 42–A to junction Alternate U.S. Highway 30, thence over Alternate U.S. Highway 30 to junction U.S. Highway 45, thence over U.S. Highway 45 to La Grange, Ill., thence over U.S. Highway 34 to junction Illinois Highway 65 at Naperville, thence over Illinois Highway 65 to Aurora; and from Chicago over U.S. Highway 34 to La-Grange, and return over the same routes.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9104; Filed, Oct. 27, 1959; 8:48 a.m.]

[Notice 210]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 23, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (39 CFR 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC 62377. By order of October 22, 1959, The Transfer Board approved the transfer to Carl R. Bieber, Inc., Kutztown, Pa., of Certificates in Nos. MC 59272, MC 59272 Sub 21, MC 59272 Sub 25, MC 59272 Sub 26, MC 63390, MC 63390 Sub 2, and MC 63390 Sub 4, issued June 1, 1943, July 31, 1947, December 26, 1947, March 12, 1951, June 3, 1949, February 14, 1951, and November 19, 1953, respectively, to Carl R. Bieber, Kutztown, Pa., authorizing the transportation of passengers and various specified commodities, from, to and between designated points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, Pennsylvania, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Vermont, and West Virginia. Carl R. Bieber, Inc., is also substituted as applicant in Dockets Nos. MC 59272 Sub 27TA and MC 59272 Sub 28.

No. MC–FC 62423. By order of October 22, 1959, the Transfer Board approved the transfer to Edith Ditchburn and Rosalie H. Sheads, doing business as Gettysburg Transfer, Gettysburg, Pa., of Certificate No. MC–FC 48749, issued July 2, 1953, to George D. Ditchburn, Edith Ditchburn, Administratrix, Edith Ditchburn and Rosalie H. Sheads, doing business as Gettysburg Transfer, Gettysburg, Pa., authorizing the transportation of: General commodities, moving in express service, between Baltimore, Md., and Gettysburg, Pa., with service to and from the intermediate points of Hampstead, Greenmount, and Lineboro, Md., and Glenville and New Oxford, Pa.; canned goods, from Gettysburg, Pa., to Washington, D.C., and Baltimore, Md., with service to the intermediate points of Silver Run and Union Mills, Md., restricted to delivery; new cans, canning machinery, and supplies, from Baltimore, Md., to Gettysburg, Pa., with service to the intermediate points of Silver Run and Union Mills, Md., restricted to delivery only; new furniture, from Littlestown, Pa., to points in Maryland, Ohio, Virginia, West Virginia, and the District of Columbia; new furniture, uncrated, from Littlestown, Pa., to points in New York, and New Jersey; and household goods, between Gettysburg, and points in Pennsylvania within 14 miles of Gettysburg, on the one hand, and, on the other, points in Maryland and the District of Columbia. Christian V. Graf, 11 North Front Street, Harrisburg, Pa., for applicants.

No. MC–FC 62629. By order of October 22, 1959, the Transfer Board approved the transfer to Edwin H. Nelson and Alfred S. Nelson, a partnership, doing business as Nightway Transportation Co., Chicago, Ill., of Certificate No. MC 93393 issued by the Commission March 22, 1949, in the name of Andrew Helmer Nelson, Jr., Alfred S. Nelson, Administrator, Edwin Henning Nelson, and Alfred Stanley Nelson, a partnership, doing business as Nightway Transportation Company, Chicago, Ill., authorizing the transportation of fruits, vegetables, fish, eggs, feed, wrapping paper, ammonia tanks, electrical appliances, automobile accessories, groceries, alcoholic beverages, and packing house products, over irregular routes, between Chicago, Ill., and Gary, Ind., on the one hand, and, on the other, points in a specified area in Indiana. Joseph M. Scanlan, 111 West Washington Street, Chicago 2, Ill., for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9105; Filed, Oct. 27, 1959; 8:49 a.m.]

[Notice 33]

APPLICATIONS FOR MOTOR CARRIER "GRANDFATHER" CERTIFICATE OR PERMIT

OCTOBER 23, 1959.

The following applications and certain other procedural matters relating thereto are filed under the "grandfather" clause of section 7(c) of the Transportation Act of 1958. These matters are governed by special rule § 1.243 published in the FEDERAL REGISTER issue of January 8, 1959, page 205, which provides, among other things, that this publication constitutes the only notice to interested persons of filing that will be given; that appropriate protests to an application (consisting of an original and six copies each) must be filed with the Commission at Washington, D.C., within 30 days from the date of this publication in the FEDERAL REGISTER; that failure to so file seasonably will be construed as a waiver of opposition and participation in such proceeding, regardless of whether or not an oral hearing is held in the matter; and that a copy of the protest also shall be served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing).

No. MC 117087 (Sub No. 2), (REPUBLICATION), filed November 12, 1958, published FEDERAL REGISTER, issue of April 23, 1959. Applicant: RIVER TRANSPORT, INC., 100A Kent Street, Charlottetown, Prince Edward Island, Canada. Applicant's attorney: Kenneth B. Williams, 111 State Street, Boston 9, Mass. The previous notice of the filing of the subject application, as published in the FEDERAL REGISTER, issue of April 23, 1959, failed fully to describe the authority sought in the Form BOR–1 application, filed November 12, 1958, which seeks a certificate to continue the transportation, in interstate or foreign commerce, by motor vehicle, over irregular routes, of: (1) *frozen berries,* from the port of entry on the International Boundary line between the United States and Canada, at or near Calais, Maine, to Boothbay, Maine, Boston, Somerville, Lawrence, and Worcester, Mass., and Albany and Amsterdam, N.Y., and (2) *bananas,* and *fresh fruits, fresh vegetables,* and *fresh berries,* when moving in the same vehicle with bananas, from Boston, Mass., to the port of entry on the International Boundary line between the United States and Canada at or near Calais, Maine. The purpose of this republication is to give notice to any persons who relied upon the notice, as originally published, and whose interests may have been prejudiced by the failure of that notice adequately to recite the issues, so that they may, within 30 days from the date of this republication in the FEDERAL REGISTER, file protests.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9106; Filed, Oct. 27, 1959; 8:49 a.m.]

[Ex Parte MC–37]

NASHVILLE, TENNESSEE, COMMERCIAL ZONE

OCTOBER 23, 1959.

By petition dated October 5, 1959, redefinition of the limits of the commer-

cial zone of Nashville, Tenn., is sought to expand the limits thereof.

The limits of the commercial zone of Nashville, Tenn., are now determined by application of the population-mileage formula enunciated in Ex Parte No. MC–37, Commercial Zones and Terminal Areas, 46 M.C.C. 665 (49 CFR 170.15, 170.16, and 170.17).

Petitioners seek enlargement of the present zone limits of Nashville to include additional areas in Davidson County, Tenn., bounded generally on the south by the Williamson County-Davidson County boundary line, on the east by Old Hickory Boulevard, Lebanon Pike and the Wilson County-Davidson County boundary line, on the north by the Sumner County-Davidson County boundary line, Dickerson Pike, and Old Hickory Boulevard, and on the west by Old Hickory Boulevard, Hydes Ferry Pike, the Cheatham County-Davidson County boundary line, River Road Pike and Old Hickory Boulevard.

The petition is filed jointly by Associated Transport, Inc., C. & D. Motor Delivery Co., T.I.M.E., Incorporated, Wilson Truck Company, Inc., Cayce Transfer & Storage Co., Inc., Osburn-Hessey Co., Fayetteville Transfer Co., Tompkins Motor Lines, Inc., and The Denver Chicago Trucking Company, Inc., of Kentucky.

This petition will be assigned for oral hearing before an Examiner at a time and place to be later fixed. Persons supporting or opposing changes in the present zone limit who desire to participate in future proceedings on this petition or be notified of any action taken thereon should notify the Commission and individual petitioners' attorneys of their desire on or before 30 days from the date of this publication in the FEDERAL REGISTER.

Petitioners' attorneys: C. J. Braun, Jr., 380 Madison Avenue, New York, N.Y.; Robert Pearce, McClure Building, Frankfort, Ky.; C. H. Hudson, Jr., Broadway National Bank Building, Nashville, Tenn.; John Womack, 176 Lafayette Street, Nashville, Tenn., and Jack Goodman, 39 South La Salle Street, Chicago, Ill.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9108; Filed, Oct. 27, 1959; 8:49 a.m.]

[No. MC-F-6778]

WESTERN EXPRESS; CONTROL AND MERGER; RICE TRUCK LINES

At a session of the Interstate Commerce Commission, Division 4, held at its office in Washington, D.C., on the 6th day of October A.D. 1959.

It appearing that by report and order of the Commission, Division 4, decided March 24, 1958, hereby made a part hereof, the acquisition by Western Express of control of Rice Truck Lines, both of Great Falls, Mont., through purchase of capital stock, the concurrent merger of the operating rights and property of the latter into the former for ownership, management, and operation, and the acquisition by John S. Rice, also of Great Falls, of control of the operating rights and property through the transaction, were authorized under section 5 of the Interstate Commerce Act, subject to the terms and conditions set out in the findings in said report.

It further appearing that in the absence of final determination of the application of Rice Truck Lines, under section 207, in No. MC–105217 (Sub-No. 39) it, at that time, held no operating rights therein subject to purchase under section 5.

It further appearing that the transaction herein authorized was consummated on June 1, 1958, and a certificate was issued on July 2, 1958, to Rice Truck Lines in No. MC–105217 (Sub-No. 39), authorizing the transportation of petroleum products, in bulk, in tank vehicles, from Anacortes, Wash., and points within ten miles thereof to points in Montana, over irregular routes, that Western Express, the surviving company in the merger, by petition tendered September 22, 1958, in that proceeding, requests the reissuance of said certificate in its name, and that the said petition has been accepted and filed herein on the date hereof as a petition for reopening and for supplemental authority.

And it further appearing that amendment of the merger to include the additional operating authority granted to Rice Truck Lines, in No. MC–105217 (Sub-No. 39), upon the same terms and conditions set forth in the findings in the report of March 24, 1958, would be consistent with the public interest:

It is ordered, That the proceeding be, and it is hereby reopened, and that the findings in said report be, and they are hereby, supplemented by adding to the operating rights authorized to be acquired by Western Express in the merger, upon the said terms and conditions, those granted by the certificate issued in No. MC–105217 (Sub-No. 39), on July 2, 1958.

It is further ordered, That notice of this supplemental order shall be published in the Federal Register, that this order shall be effective 35 days from the date of such publication, unless it is stayed or otherwise postponed, and unless the parties exercise the authority herein granted within 30 days from the said effective date, and submit advice thereof in writing herein, this order shall be of no further force and effect.

And it is further ordered, That the said order of March 24, 1958, as supplemented hereby, shall be and remain in full force and effect.

By the Commission, Division 4.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-9107; Filed, Oct. 27, 1959; 8:49 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

Deputy Assistant Director for Training and Education

DELEGATION OF CERTAIN STUDENT EXPENSE PROGRAM AUTHORITY AND FUNCTIONS

1. *Purpose.* The purpose of this Delegation of Authority is to transfer to the Deputy Assistant Director for Training and Education certain authority and functions which the Director, Office of Civil and Defense Mobilization, delegated to me October 9, 1959, concerning the program of payment of travel expenses and per diem allowances, pursuant to section 201(e) of the Federal Civil Defense Act of 1950, as amended, for students in attendance at OCDM schools.

2. *Authority and functions delegated.* Pursuant to the authority vested in me by the Director, I hereby redelegate to the Deputy Assistant Director for Training and Education, retaining the right to exercise the same concurrently, the following authority and functions necessary for the administration of the program of Federal reimbursement, pursuant to section 201(e) of the Federal Civil Defense Act of 1950, as amended, for expenses of students attending OCDM schools:

(a) Approving requests for reimbursement and other documents obligating funds for student expenses.

(b) Determining and revising student quotas and allocations of funds to States.

(c) Issuing correspondence and communications explaining and applying OCDM directives and issuances relative to the student expense program.

3. *Limitations.* The Deputy Assistant Director for Training and Education shall exercise such authority and perform such functions in accordance with the Federal Civil Defense Act of 1950, as amended; other applicable law; OCDM regulations, manuals, supplements and amendments thereto, as may be applicable; and such additional rules, regulations, procedures, administrative or technical instructions and communications as the Director or the Director of Administration may issue.

4. *Redelegation.* With the exception of those set forth in subparagraphs (a) and (c) of paragraph 2 hereof, the authority and functions hereby redelegated shall not be further redelegated but shall be exercised and performed by the Deputy Assistant Director for Training and Education. The authority and functions in subparagraphs (a) and (c) of paragraph 2 hereof may be redelegated to the Directors of Training Centers, the Director of the Staff College, and the Director of the Radiological Defense School.

5. *Effective date.* This Delegation of Authority shall be effective upon execution.

Dated: October 13, 1959.

KENNETH T. DOWNS,
Assistant Director for Training, Education, and Public Affairs.

[F.R. Doc. 59-9081; Filed, Oct. 27, 1959; 8:45 a.m.]

CUMULATIVE CODIFICATION GUIDE—OCTOBER

A numerical list of parts of the Code of Federal Regulations affected by documents published to date during October. Proposed rules, as opposed to final actions, are identified as such.

3 CFR

Page

Proclamations:

2761A 8625
2867 8625
2888 8625
2929 8625
3140 8625
3160 7893
3225 7893
3285 7893
3315 7891
3316 7891
3317 7893
3318 7979
3319 8317
3320 8399
3321 8399
3322 8477
3323 8625

Executive Orders:

Sept. 1, 1887 8175
July 20, 1905 8175
July 21, 1905 8175
May 11, 1915 8175
May 17, 1921 8175
1579 8175
5813 8498
5815 8498
6714 8650
6883 8260
7908 8289
8509 8175
8531 8289
10046 8289
10784 8317
10791 7939
10839 7939
10840 7939
10841 7941
10842 8249
10843 8289, 8401
10844 8289
10845 8317
10846 8318
10847 8319
10848 8401

4 CFR

51 8596
52 8596
53 8596
54 8596

5 CFR

6 7942, 7979, 8406, 8602, 8603
24 7981, 8291
27 8357
37 8357
325 8463

6 CFR

10 7894, 8628
50 8292
331 7942, 8429, 8603
341 8401
342 8406
344 8401
372 8429, 8603
421 8212, 8477, 8479, 8480, 8537, 8665, 8667
427 8249
475 8319, 8628
485 7987, 8406, 8667

7 CFR

28 8542
44 8365

7 CFR—Continued

Page

52 8162, 8365, 8367
70 8480
401 7894
722 8407, 8430, 8481, 8628
729 8209, 8211
811 8628
847 7942, 8440
864 8408
871 8292
874 8488
903 8087
905—908 8087
911—913 8087
916—919 8087
921 8087
922 8001, 8251, 8440, 8629, 8630
923—925 8087
928—932 8087
933 8002, 8003, 8441, 8442
935 8087
938 8410
941—944 8087
946 8087
948—949 8087
951 8004
952 8087
953 8004, 8251, 8443, 8491, 8630, 8717
954 8087
955 8252
956 8087
957 8668
958 8089, 8252
959 8304
965—968 8087
969 8443
971—972 8087
974—978 8087
980 8087
982 8087
984 3324, 8603, 8668
985—988 8087
989 8253, 8411, 8669
991 8087
994—995 8087
997 8325
998 8087
1000 8087
1002 8087
1004—1005 8087
1008—1009 8087
1011—1014 8087
1015 8089, 8542
1016 8087
1018 8087
1023 8087
1070 8717
1101 8542
1102 8543
1103 8543
1104 8162
1105 8170, 8543

Proposed rules:

52 8112
53 8499
55 7899
58 8550
81 8114
722 7900
723 8237
725 8237
727 8237
729 8239
730 8186, 8239
815 8239

7 CFR—Continued

Page

Proposed rules—Continued

902 8739
904 8116
922 8466
924 8116, 8651
927 8184
933 8299
938 8332
943 8653
954 8186
955 8610
957 7962
958 8332
959 8741
960 8414
961 8117
968 8680
990 8116
996 8116
997 8300
999 8116
1005 7963
1010 8117
1012 8300, 8654
1015 8118
1019 8116
1024 8693
1027 7964
1070 8301

8 CFR

206 8359

9 CFR

54 8254
77 8544
201 8411

Proposed rules:

92 7900

12 CFR

217 8371
220 8411, 8670
544 8461
563 7894

13 CFR

120 8325
121 7943

14 CFR

40 8089
41 8090, 8254
42 8090
299 8719
375 8091
507 7981, 8092
514 7943
600 7895, 7896, 8092, 8093, 8491, 8544, 8631–8639, 8720
601 7895, 7896, 7982, 8092, 8093, 8491, 8544–8546, 8631–8640, 8720
602 8360, 8640, 8721
608 7982, 8670
609 7944, 7983, 8360, 8670, 8674
610 7985, 8641

Proposed rules:

40 8302
41 8302
42 8302
241 8419, 8747
507 8188, 8302, 8610, 8611, 8681
514 7965, 8681
600 7966, 8118, 8119, 8270, 8381, 8503, 8504, 8553, 8655, 8656, 8747–8749.